

PREVENTION OF MAJOR DISASTERS IN  
COAL MINES

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REPORT

OF THE

COMMITTEE ON EDUCATION AND LABOR

TO THE

HOUSE OF REPRESENTATIVES

EIGHTY-SECOND CONGRESS

SECOND SESSION

ON

H. R. 7408

A BILL TO AMEND PUBLIC LAW 49, SEVENTY-SEVENTH  
CONGRESS, SO AS TO PROVIDE FOR THE PREVENTION  
OF MAJOR DISASTERS IN COAL MINES



JUNE 30, 1952.—Committed to the Committee of the Whole House  
on the State of the Union and ordered to be printed

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REPORT  
OF THE  
COMMITTEE ON EDUCATION AND LABOR

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# Union Calendar No. 748

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2d Session

HOUSE OF REPRESENTATIVES

REPORT  
No. 2368

## PREVENTION OF MAJOR DISASTERS IN COAL MINES

JUNE 30, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BARDEN, from the Committee on Education and Labor, submitted the following

### REPORT

[To accompany H. R. 7408]

The Committee on Education and Labor, to whom was referred the bill (H. R. 7408) to amend Public Law 49, Seventy-seventh Congress, so as to provide for the prevention of major disasters in coal mines, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof a substitute which appears in the reported bill in *italic type*.

#### HISTORY OF MAJOR DISASTERS IN COAL MINES

The hazardous nature of mining was recognized by the Federal Government as long ago as 1865, when a bill to create a Federal mining bureau was introduced in Congress. However, little was done until a series of serious coal-mine disasters after the turn of the century aroused the public to demand Federal action to stop such excessive loss of life. As a result, an act of Congress established a Bureau of Mines in the Department of the Interior on July 1, 1910, and the act made it clear that the Bureau's foremost activity would be the promotion of health and safety in the mineral industries.

Coal mine safety laws were passed by most of the then coal-producing States before the year 1890, and the laws gave State inspectors varying powers for obtaining compliance. The earliest State coal-mining law was adopted by Pennsylvania in 1869 and applied to the State's anthracite mines. Inasmuch as little was known at that time about the causes of mine disasters, and the means of preventing them generally were unknown and unavailable, the original laws could not be expected to prevent such disasters.

Practices in the old days of mining were crude and extremely dangerous. Some of these were the use of coal-burning furnaces installed underground to induce movement of ventilating currents through the mine workings; the general use of open flame lamps for illumination in all mines whether gas or nongassy; and the use of black powder or dynamite for all blasting purposes because no other type of explosive was manufactured. Coal dust was allowed to accumulate throughout the mines, and, since it was not known to be explosive, nothing was done to render it inert. The number of fatalities from major coal-mine explosions in the United States from 1901 to 1910 was 3,912. During the same 10-year period, coal production increased from 270 million to 500 million tons, and the employment in the coal mines increased from 448,000 to 725,000.

The need for research into the causes and means of preventing coal-mine disasters, particularly explosion disasters, was acute but there was little official activity in this direction until the establishment of the United States Bureau of Mines in 1910.

One of the first endeavors of the Bureau of Mines was to determine the causes of coal-mine explosions and then find the means for their prevention. Among the first contributions of the Bureau technicians toward the solution of the disaster problem was the introduction in 1911 of permissible explosives, which, when used as recommended by the Bureau, will not ignite gas or coal dust. Other early research conducted by the Bureau to solve the explosion menace included studies of ventilating practices and facilities, investigations and tests of explosion-proof electric motors, electric blasting, mine gases, and the explosibility of coal dust. As a result of such research, the fundamental causes of coal-mine explosions and means and methods for their prevention were soon determined, and they were made known to the coal-mining industry through published reports and through personal contact with mine personnel.

The halting progress of the struggle to prevent coal-mine disasters after their causes and the means of preventing them were known and made available is indicated by the record which shows that from 1910 to date a total of 334 major disasters have occurred in the coal mines of the United States causing the death of 6,720 persons. (A major disaster, as classified by the United States Bureau of Mines, is one in which five or more persons are killed.) Whereas there were no major disasters in the Nation's coal mines in 1949 and 1950, 5 occurred in 1951 causing the death of 157 persons and indicates that what has been done up to now to prevent such holocausts is not enough.

In the act of May 7, 1941, Congress authorized inspection and investigation of coal mines by the Secretary of the Interior for the purpose of obtaining information and making recommendations relating to health and safety. But that act did not require compliance with the standards or recommendations of the Secretary.

At 3:26 p. m., March 25, 1947, an explosion in a mine overladen with highly combustible coal dust killed 111 miners in the Centralia coal mine disaster in Illinois. Following this disaster, Congress passed Public Law 328, Eightieth Congress, which requested that the coal operators and the State mining agencies report the extent of compliance with the recommendations of the United States Bureau of Mines.



Since that time, Congress has continued to appropriate substantial sums of money with which the Bureau of Mines has continued to develop efficient, practical, scientific safety standards. If these standards were adhered to they would sharply reduce all major disasters and fatal and nonfatal injuries.

Compliance with recommendations of Federal coal-mine inspectors is now at the lowest level since 1946-47, the year of the Centralia disaster. The record is as follows:

Fiscal year:	Percent of recommendations complied with
1946-47	25
1947-48	41
1948-49	28
1949-50	30
1950-51	27

During the fiscal year 1950-51, 6,360 mines were inspected, and a total of 121,614 violations of the Federal Mine Safety Code were reported. These figures and the attitude of mine operators are given even greater significance by the following facts:

A total of 8,971 mine inspections revealed the presence of serious hazards in 4,380 mines, nearly one-half of the mines inspected. The Bureau of Mines sent letters to all of the owners and operators of these mines calling attention to the dangerous conditions in their mines. Only 474 of these letters were answered. No reply was received from 89 percent of the owners and operators of these mines which had been found to have serious hazards present.

These violations include inadequate and hazardous ventilation systems; dangerous use of permissible and nonpermissible explosives; faulty electrical equipment; failure either to remove or render inert combustible coal dust, and other practices which constitute a veritable catalog of lethal recklessness.

The present 29 coal-mining States have an infinite and confusing variety of laws affecting the safety of coal miners. While some States have had adequate enforcement of these State laws, in others they have often been carried out in an indifferent and haphazard manner.

At approximately 7:40 p. m., on December 21, 1951, a preventable explosion in Orient No. 2 at West Frankfort, Ill., killed 119 coal miners. Investigation by Federal and State experts revealed that the disaster occurred when an electric arc from defective and nonpermissible equipment exploded methane gas which in turn ignited coal dust, thus propagating the explosion through several miles of the mine. If the Federal Mine Safety Code had been complied with, neither the defective equipment, the methane gas in explosive percentage, nor the combustible coal dust would have been present in the mine. The State inspection authorities were well aware of the conditions in this mine as reported by Federal coal-mine inspectors on numerous occasions but took no corrective action.

It would be difficult for the human mind to conceive of a more perfect death trap than Orient No. 2 was on the date of the explosion.

Ventilation at Orient No. 2 was provided by two electrically driven fans, both operated continuously. The ventilating currents generally were coursed through the mine so that the actual working areas were ventilated with air which first had ventilated the edges of the gas-laden, unsealed, abandoned areas where many previous inspections had shown methane to be present in dangerous quantities.

These currents were then returned to the surface by way of the haulage roads in which uninsulated trolley wire was installed. Trolley locomotives used to haul coal were powered from these bare wires which produced many electric arcs. Inspections before and after the explosion disclosed that excessive accumulations of coal dust existed in the working regions and that the amount of rock dust which had been applied was inadequate to make the coal dust incombustible.

The explosion was caused by the movement of a large body of explosive gas, methane, from a squeezing and caving abandoned area to the active working sections where, it is believed, the gas was ignited by an electric arc or spark. The gas explosion stirred up coal dust, ignited it, and the original explosion was extended throughout a large area, greatly increasing the extent of destruction.

The resulting holocaust, in addition to killing 119 men and seriously injuring others, blew 3,000-pound coal cars off their tracks, blasted ventilation doors out of place, and quickly burned out an area more than 2½ miles long.

Orient No. 2 has been operated by the Chicago, Wilmington & Franklin Coal Co. since 1922. A total of 1,127 men worked at the mine—258 on the surface and 869 underground—on two coal-producing shifts and one maintenance shift. The daily output is about 10,000 tons. The first Federal inspection of the mine was made April 10-29, 1942. From that date until the disaster, 16 Federal inspections had been made. Thirteen of the inspection reports pointed out that the mine was dry and dusty, that excessive accumulations of coal dust were present in the working sections and along the haulage roads, and recommended that the accumulations be removed. Many of these inspections, including the last one, pointed out that the ventilation system was hazardous, that the electrical equipment was dangerous, that the coal dust was inadequately treated, and that these conditions created "serious hazards similar to those that may have caused heavy loss of life or destruction of property in coal mines." These reports were all forwarded to the mine operator, to the union, and to the State government. For at least 2 years prior to the disaster, therefore, the company, the local union, and State officials had known that the elements of disaster were present in Orient No. 2.

The death of 119 men brought belated recognition from management that the ventilation system was faulty. It is now being redesigned to comply with the recommendations of the United States Bureau of Mines.

On February 2, 1952, an explosion occurred in Carpentertown mine No. 2, Westmoreland County, Pa., killing six men and hospitalizing four others. The mine had been classed as gassy by the United States Bureau of Mines in June of 1951, when Federal inspectors detected 0.25 percent of methane gas in one of the air samples. Management protested against the new classification, which, if accepted, would require changes in mining practices, such as preshift and on-shift tests for gas by mine examiners or "fire bosses," the employment of shotfirers to do all blasting now done by regular miners, and changes in the ventilation system and electrical equipment. The Pennsylvania Department of Mines continued to classify the mine as non-gassy.

Under the gassy classification, Federal mine inspectors cited and posted at the mine office notices of several violations of the Federal

Mine Safety Code. Two of the recommendations read as follows:

Air passed through abandoned workings should not be used to ventilate active workings.

The trolley wire should not be in air returning from pillar recovery work.

Neither recommendation was heeded. At 1:45 a. m., on February 2, 1952, the explosion of methane gas was set off by an electric arc from a trolley locomotive, and six men died in the scorching flame of exploding gas.

On March 27, 1952, an inrush of water from an abandoned "bootleg" mine caused the death of five miners in Holmes Slope mine, Cano & Martin, Inc., Schuylkill County, Pa. Seven men were in the mine at the time, and two escaped to the surface. The water entered the mine immediately after blasts were fired at the face of a working place. Although the mine operator was aware that "bootleg" workings existed in the area, test holes were not drilled in advance of the advancing faces. A State-certified mine foreman was not employed to supervise the operation of this mine.

The enactment of legislation alone will not be sufficient to prevent disasters, but utter disregard for practicable safety practices which would prevent major disasters and the resultant death and injuries is just and proper cause for enforcement authority of such rules and regulations as the Congress may deem compelled to enact into law.

#### MAJOR DISASTERS DISTINGUISHED FROM ORDINARY ACCIDENTS

There are two distinct classes of mine accidents and the problem of preventing major disasters cannot be clearly understood unless this distinction is perceived. About 90 percent of the fatalities in the coal industry are in the accident category as distinguished from the fatalities which occur in major disasters. About 10 percent of the total fatalities result from disasters such as explosions and mine fires. H. R. 7408 is designed to prevent those major disasters in which large numbers of men are killed in mine fires, mine explosions, mine inundations, man-trip and man-hoist accidents.

Many of the ordinary accidents and fatalities are the result of errors in judgment, inadvertence, defective perceptions, and the like, on the part of individuals. Much testimony was heard alleging that legislation could not prevent accidents which result from such causes and it is a basic premise that legislation alone cannot and will not make men act in a careful and prudent manner. It is well known and freely acknowledged that the most fruitful approach to the problem of ordinary mine accidents as distinguished from major disasters lies in the realm of the training of the individual person through instruction and psychological propagation of safety-first prudence.

The United States Bureau of Mines, the various State mining agencies, and operator and employee groups are continually striving in this field of training and propagation of safety-first programs.

The bill does not contemplate in any way effecting such programs except as it may relieve those other agencies in preventing major disasters and thereby encouraging greater efforts in the fields left to the State agencies, operator, and employee groups.

The problems connected with major mine disasters are so different from those associated with ordinary mine accidents as to be only

remotely related. This is proven by the fact that some of the worst disasters in the mining industry have occurred in mines having excellent performance with respect to ordinary accidents. The explanation for this is that ordinary accidents can occur from any one of an almost infinite number of causes of which the greatest is human error. Major mine disasters, in recent times, have resulted from a very few basic causes. The men killed or injured in a mine disaster have no control whatever over the basic causes of these disasters. These men are killed and injured by an environment which they did not create and cannot avoid.

Many witnesses testified that mine safety was the responsibility of the management of the mines and while management cannot preclude human error they do have the responsibility to provide a safe place of employment; they have the duty to protect the lives of the men as well as their property.

Some of the basic causes of mine disasters, that is, mine fires, mine explosions, mine inundations, man-trip and man-hoist accidents are as follows:

- (a) Excessive and unwarranted accumulations in the mines of loose coal, coal dust, and other combustible materials.
- (b) Accumulations of explosive gases in the mines.
- (c) Adequate precautions not taken when extracting coal toward areas which have been abandoned and in which water may be impounded.
- (d) Improper equipment and improper maintenance of such equipment where men are transported in large bodies from the surface of the mine to the working places in the mines.

These basic causes of major mine disasters can be and should be eliminated. When these causes are eliminated practically all major mine disasters will be eliminated. The means of eliminating the causes of mine disasters are well known, the costs of these means is not at all prohibitive if they are currently maintained in mining operations.

Firstly, excessive and unwarranted accumulations of loose coal, coal dust, and other combustible materials can be eliminated by removing such accumulations from the mine to the greatest extent practicable. After such removal, adequate rock dusting with inert materials will prevent loose coal and coal dust from exploding.

Secondly, the first step in eliminating gas as a cause of mine disasters is the recognition that such gas exists or may exist within the mine. Upon evidence of gas after the enactment of this bill, the mine should at all times thereafter be operated as a gassy mine. The presence of gas is often inherent in the mining of coal and this volatile and insidious gas must be lived with or died with. Accumulations of explosive gas within a mine can be eliminated by proper ventilation and sealing of abandoned workings. If it cannot be so eliminated within a mine, the mine should be abandoned. The history of mine fires and explosions indicate that whenever explosive atmospheres are permitted to exist they are going to be ignited by one cause or another, whether ignited by a match, cigarette, an electrical spark, or other method.

Thirdly, the presence of water impounded underground can be detected and mining in such areas can be performed by drilling bore holes ahead of the workings to provide adequate notice; as water will



itself gush forth notice of its presence or will gush forth catastrophic death.

Fourthly, the hoists and travel ways by which men make trips into the mine must be made safe or an accident to a large body of men will result in disaster.

The bill is designed to prevent the causes of these major disasters. A cursory view of the mine safety provisions contained in section 209 of the bill shows that they are designed to provide for determination of whether or not a mine is a gaseous mine, provides for proper ventilation, proper rock-dusting, proper electrical equipment and fire protection, adequate roof support in the travel ways, and proper safety in regard to the hoisting of men. These provisions are designed to prevent the causes; if the causes cannot be prevented and are not prevented, the bill provides that the mine shall be closed until such dangers can be eliminated.

The bill is not designed to prevent the day-to-day accidents which occur in the mine industry nor for the general health and welfare of the miners. This large field is left to the cooperative efforts between the Federal Bureau, the State agencies, employers and employees. The enforcement of rules and regulations in the field of day-to-day accidents, safety, health, and welfare is clearly left within the jurisdiction of the several States.

To graphically illustrate that the bill is restricted to the prevention of mine disasters the following is cited. At the present time several States by statute, require in gassy mines that only permissible equipment approved by the United States Bureau of Mines be used. (See p. 86 of the hearings of the subcommittee of the Committee on Education and Labor on H. R. 268, 82d Cong., 2d sess., for list of such States.)

At the present time, the United States Bureau of Mines, in determining what equipment is permissible, tests such equipment in its laboratory with regard to whether or not it will set off mine fires or mine explosions, and for the health and safety of the operator of such equipment and the men working in the area around such equipment.

The bill, by the provisions contained in section 212 (a), permits the Director to determine whether the construction of any equipment conforms to specifications which are designed to assure that such equipment will not cause a mine explosion or a mine fire. The bill also requires that such equipment be maintained in a manner which will prevent it from causing mine fires and mine explosions. The bill does not require that such equipment be designed or maintained with regard to the health and safety of the operator or the men working around the equipment. Thus, the Federal law which would be enacted by the bill would protect the men from a mine fire or mine explosion caused by faulty equipment but it would not protect the operator or the men from the lack of, or inadequacy of, guards or protective devices. That feature of mine safety would be left to the States.

#### EFFECT ON STATE LAW AND STATE RESPONSIBILITY

The bill, by requiring compliance with specific provisions to be enacted into law which are designed to eliminate the causes of major disasters and thereby eliminating the occurrence of such disasters, leaves to the various States the enforcement of their laws with regard



to general accident, safety, health, and welfare of mine employees. Further, the bill provides for State cooperation in carrying out and enforcing compliance with the Federal law. Thus, the committee believes that every possible step has been taken to reserve to the States as much responsibility as can be, if the Federal Government is to enter this field with any enforcement powers.

The bill expressly provides that no State or Territorial law effective upon the date of the bill or which may become effective thereafter shall be superseded except insofar as such law is in conflict with the bill and expressly provides that any provision of such law which provides for greater safety of persons than do provisions of the bill shall not be construed or held to be in conflict.

The bill also provides that provisions of State or Territorial law providing for the safety of persons in coal mining operations concerning which no provision is contained in the bill shall not be construed or held to be superseded by the bill.

The Federal Bureau of Mines by authority contained in Public Law 49 has power to make inspections and recommendations in the entire field. The enactment of the bill would not permit promulgation of rules and regulations but rather enacts into law those provisions which are designed to prevent major disasters only. Under this bill the employees will be provided safe places in which to work and the causes of disasters over which they have no control will be eliminated. The responsibility of the several States to enact proper laws, and administer those laws, regarding the general safety, health and welfare of the employees will remain. The result of a joint enforcement program should hasten the day in which the workers of this major industry would not be killed in the catastrophies which have so frequently occurred.

#### SCOPE AND PURPOSE OF THE BILL

The bill (H. R. 7408) would amend the act of May 7, 1942 (Public Law 49, 77th Cong.) entitled "An act relating to certain inspections and investigations in coal mines for the purpose of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes."

The first section of the bill adds a new title to Public Law 49 which is designed to prevent major disasters in coal mines, the products of which regularly enter into interstate or foreign commerce, or the operations of which substantially affect such commerce.

Sections 2, 3, and 4 of the bill would amend the existing provisions of Public Law 49, which will become title I of that act, in minor details necessary to conform the titles I and II, as explained later in the report.

Section 4 of the bill provides that the act may be cited as the "Federal Coal Mine Safety Act."

#### *Mine inspections*

The bill specifically exempts any mine in which no more than 14 persons are regularly employed underground. It also exempts all strip mines. The bill provides that at least once a year an inspector of the Bureau of Mines shall inspect each mine, the products of which regularly enter interstate or foreign commerce, or the operations of

which substantially affect such commerce, and also provides for other special inspections as the Director of the Bureau of Mines deems necessary for the proper administration of the bill. The requirement of annual inspections is a minimum requirement and the bill recognizes that some mines should be inspected more often than once a year.

#### *Mine-closing orders*

The bill provides for issuance of a mine-closing order by a Federal coal-mine inspector if, upon inspecting a mine, he finds danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated.

The language of this provision is clear. The finding of danger will be made only by a Federal coal-mine inspector under the direction of the Director of the Bureau of Mines. The findings can only be based upon facts disclosed by an inspection of the mine. The danger which will justify the issuance of a mine-closing order must be danger that a mine explosion will occur immediately or before action which might avoid it could be taken, or danger that a mine fire will occur immediately or before action which might avoid it could be taken, or danger that the mine will be inundated immediately or before action which might avoid it can be taken, or danger that a man-trip or man-hoist accident will occur immediately or before action which might avoid it could be taken. These are definite requirements with reference to the kind of a finding which a coal-mine inspector must make before he may issue a mine-closing order. They are quite different than the finding merely of danger to the safety of employees as the basis of a mine-closing order.

The bill would enact into law the Federal coal-mine safety provisions which coal-mine operators would be required to observe in the operation of their mines. It would grant no authority or power to the Bureau to make coal-mine safety regulations of any kind. Only Congress would exercise that power, and only Congress could change the coal-mine safety provisions which it enacts into law. Under the bill the jurisdiction of the Federal Government in connection with coal-mine safety is limited to a small part of the whole field of coal-mine safety. The bill contains only such coal-mine safety provisions as are designed to prevent the causes of major coal-mine disasters, namely, disasters caused by coal-mine explosions, coal-mine fires, coal-mine inundations, and man-trip and man-hoist accidents.

The number of these provisions is small, and:

They require adequate support of roof and ribs in underground roadways and travelways for the purpose of protecting persons riding on man-trips in such roadways and travelways from falls of roof or ribs which might injure them.

They provide for classifying a mine as a gassy mine and an appeal from such determination.

They prescribe minimum standards of ventilation of underground areas in mines which must be maintained to provide currents of air sufficient to dilute and render harmless, and to carry from the underground areas of a mine explosive or noxious gases which may collect therein.

They require that accumulations of coal dust in a mine must be covered with sufficient inert rock dust so that the combined coal dust and rock dust will not explode or burn. If a small fire or explosion does occur in a mine adequate rock dusting will keep it from spreading throughout the whole mine or a large part thereof.

They prescribe the kinds of examinations which must be made in all underground mines at specified times to ascertain whether or not explosive gas may have accumulated in such mines, and whether other hazards are present.

They require that electrical machinery, when used for certain purposes in underground mines in which explosive gas has been found to exist, shall be of a type which will not permit sparks from the machines to come into contact with the air in the mine, as a precaution against ignition of any explosive gas which may have collected unexpectedly.

They also require that when, in extending underground working areas in a mine, the walls of such areas approach within 200 feet of any abandoned mine workings which cannot be inspected and which might contain dangerous accumulations of water, bore holes shall be drilled at least 20 feet ahead of such advancing walls for the purpose of detecting such accumulations of water and preventing them from inundating the mine.

They also provide that hoists used to transport persons in a mine shall be equipped with adequate safety brakes and safety catches, and that such hoists shall be inspected daily to ascertain if they are in safe working condition.

They also contain a small number of other provisions prescribing simple fire prevention precautions.

The bill provides that if a Federal coal-mine inspector, upon inspecting a mine, finds that any of the coal-mine safety provisions, which the bill would enact into law, are being violated, and finds that such violation does not cause danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated. Notice of such finding must be given to the operator. Such period of time may be extended by the inspector upon making a special inspection of the mine if circumstances warrant such extension. If at the end of such period of time the violation has not been stopped, an order to close the mine or the part of the mine affected by the violation must be issued unless within a State where a State plan is in effect.

### *Appeals*

The bill provides that a coal-mine operator ordered to close his mine, or a portion of it, on either of the two grounds specified in the bill (namely, the existence of imminent danger of a mine disaster, or unabated violation of a mine safety provision contained in the bill), may apply for annulment or revision of the order either to the Director of the Bureau of Mines or to the Federal Coal-Mine Safety Board of Review. In a State where a State plan is in effect, such appeal is made directly to the Board of Review. If the operator chooses to apply to the Director the latter must reinspect the mine or have such reinspection made by three Federal coal-mine inspectors, other than the inspector who originally made the closing order, who then report to him. The Director must then make findings, based upon his inspection or the report of the three inspectors, and issue an order annulling, revising, or affirming the original closing order.

The bill creates a Federal Coal Mine Safety Board of Review to hear appeals from orders of Federal coal-mine inspectors and the Director. This Board is an independent tribunal consisting of three members appointed by the President with the advice and consent of the Senate. One of these members must be a person representing the viewpoint of coal-mine operators, one a person representing the viewpoint of coal-mine workers, and one who must be a graduate engineer with experience in the coal-mining industry or have had 5 years' experience as a practical coal-mining engineer, and who is also the chairman. Immediately upon the filing of an application the Board must fix the time for a prompt hearing. Pending the hearing the

applicant may ask the Board for temporary relief, which the Board may grant. The Board is not bound by any previous findings of fact made by the Director or by any coal-mine inspector. Evidence relating to the making of the order complained of or to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties. The burden of proof rests upon the Director. Findings and orders of the Board must be in writing and must bear the signatures of the members who concur.

The bill further states that "In view of the urgent need for prompt decision of matters submitted" to the Director and to the Board, all actions which they are required to take "shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

#### *Judicial review*

The bill provides that any final order issued by the Board is subject to review by the United States Court of Appeals upon the filing of notice of appeal within 30 days after the date of the order. Pending the hearing the applicant may ask the court for temporary relief, which the court may grant. The court hears the appeal on the record made before the Board, and must permit argument, oral or written, or both, by both parties. The decision of the court of appeals is final, subject only to review by the United States Supreme Court.

Any time during the pendency of an appeal to the Board or to the court of appeals or while the matter is before the Supreme Court, the operator may apply to the Director of the Bureau for annulment or revision of an order.

#### *Federal-State cooperation*

The bill specifically provides for coordination of Federal and State activities in the field of coal-mine safety. Any State desiring to cooperate under the bill may submit a State plan to carry out such purposes. Such plan shall: (a) designate the responsible State agency; (b) give assurances that it has or will employ an adequate and competent staff of inspectors to make mine inspections within the State; (c) give assurances that when called upon it will assign inspectors to participate in the inspections; and (d) provide that it will make reports in order to furnish information to the Director. The Director shall approve any State plan which complies with the above requirements and may not disapprove any such plan without affording notice and opportunity for hearing. The Director, after notice and hearing, upon finding that there is (a) a failure to comply substantially with a State plan or, (b) a failure to reasonably cooperate in administering the provisions of the bill, may withdraw his approval of such plan, and upon receipt of notice of such action the plan shall cease to be in effect.

In any State in which a State plan is in effect, it is contemplated that the Federal inspector and the State inspector shall inspect a mine together, as the bill requires in such a State that no inspection shall be made by a representative of the Bureau of Mines unless a State inspector participates therein. However, if, in the Director's judgment, an inspection is urgently needed to determine if danger of a disaster exists in a mine, and participation by a State inspector would



unreasonably delay the inspection, the Federal inspector may inspect the mine without the State inspector.

The fact that a State inspector participates in the inspections in a State where a cooperation plan is in effect, in no way interferes with the closing of the mine by the Federal inspector upon finding of immediate danger of a disaster. The mine is closed by the Federal inspector, whether the State inspector concurs or not.

If the danger of immediate disaster is found upon an inspection conducted where the Director determines participation by a State inspector would unreasonably delay the inspection, the closing order is issued immediately upon the finding of the danger as usual. However, in such case, the operator may request the State agency cooperating under a State plan to inspect the mine while it is closed under such an order. If the operator chooses to call for a State inspection, the mine remains closed regardless of the findings of the State inspector. The operator must appeal directly to the Board of Review under section 207, but not to the Director under section 206. The choice available to the operator is intended to give him every opportunity to present his case in the manner he deems most expedient and desirable.

In any State in which a cooperation plan is in effect, the Federal inspector may not issue an order closing a mine, in which he has found violations of the safety provisions of the bill which do not cause danger of an immediate disaster and has found that a reasonable time to abate such violation has expired without the violation being abated, unless a State inspector concurs in the issuance of such order. If the State inspector does not concur in the issuance of such order, the operator of the mine, the Federal inspector, or the State inspector may make application within 24 hours after the completion of the inspection for the appointment of an independent inspector. The judge of the United States district court for the district in which the mine is located shall, within 5 days after the receipt of such application, appoint a graduate engineer with experience in the coal-mining industry to serve as the independent inspector. Within 5 days of his appointment, the independent inspector shall inspect the mine; the Federal and State inspectors shall be given the opportunity to accompany him. Upon the completion of the inspection by the independent inspector, if either he or the State inspector concur with the Federal inspector, an order closing the mine shall be issued. If neither concur with the Federal inspector, the order closing the mine may not be issued.

#### *Effect on State law*

The bill provides that no State or Territorial law shall be superseded by any provision of this act, except to the extent that such law is in conflict with this title. The mine safety provisions of the bill, however, are limited to coverage of the causes of coal-mine disasters. The bill provides that those State Laws which provide greater safety than do similar measures of the bill would not be superseded by the Federal law. The bill further specifically reserves to the States full power to legislate in all matters pertaining to coal-mine safety which are not covered by the bill. This reserves to the States the right to legislate in the broad field of accidents involving human failure, and it is in this field that most accidents occur. There will remain in the States ample opportunities and responsibilities to warrant the continued activity of State coal-mine safety enforcement agencies.



The bill also provides that nothing in it shall be construed or held to supersede or affect the workmen's compensation laws of any State or Territory, or to enlarge or diminish or affect the common law or statutory rights, duties, or liabilities of employers and employees under State or Territorial laws in respect of injuries, occupational or other diseases or death of employees arising out of or in the course of employment.

#### EXPLANATION OF THE BILL BY SECTIONS

The first section of the bill adds a new title II to Public Law 49, designed to prevent major disasters in mines the products of which regularly enter interstate or foreign commerce, or the operations of which substantially affect such commerce. This new title consists of sections 201 and 215, inclusive, as follows:

##### *Section 201. Definitions and exemption*

*Subsection (a).*—This subsection contains definitions of the following terms used in title II: "Board," "Bureau," "certified person," "commerce," "Director," "duly authorized representative of the Bureau," "mine," "operator," "permissible," "premises," and "rock dust." Most of these definitions are self-explanatory; those which require special comment are discussed below.

Several provisions of the new title II require that a duty such as testing for gas, searching for fire, or examining for hazards be performed by a "certified person;" this means by a person qualified under applicable State law to do so, except that in a State which has no law, it means by a person deemed by the operator to be qualified to do so.

The definition of "duly authorized representative of the Bureau" permits inspectors appointed under section 9 of the existing law (which will become section 109 of title I of the law as amended by this bill) to make inspections, findings, and orders under the new title II, when authorized by the Director to do so.

"Mine" is defined so that title II does not apply to strip mines.

"Operator" is defined as the person operating a mine and "owning the right to do so"; the quoted phrase is included to make it clear that the person responsible for performing duties which the new title places upon an "operator" is the person who owns the right to operate the mine (whether he derives this right from outright ownership of the mine, or from a lease, contract, or other arrangement), as opposed to a mine foreman, mine superintendent, or other employee of the person operating the mine.

*Subsection (b).*—This subsection provides that title II shall not apply to any mine in which no more than fourteen individuals are regularly employed underground.

##### *Section 202. Inspections*

*Subsection (a).*—This subsection provides that at least once a year an authorized inspector of the Bureau of Mines shall inspect each mine the products of which regularly enter interstate or foreign commerce, or the operations of which substantially affect such commerce, for the purpose of determining whether a danger described in section 203 (a) exists in such mine, whether section 209 is being violated in such mine, or whether any such mine is a gassy mine as prescribed in section 203 (d). The "danger described in section 203 (a)" is danger that a mine explosion, mine fire, mine inundation, or man-

trip or man-hoist accident will occur immediately, or before the imminence of the danger can be eliminated. Section 209, explained more fully below, requires compliance with certain safety standards as to roof support, ventilation, coal dust and rock dust, electrical equipment, and certain miscellaneous matters. Section 203 (d) provides for the classification of a mine as a gassy mine. Subsection (a) also provides for such special inspections as may be required by section 203 (c) and section 206 (see explanations of these provisions below), and such other inspections as the Director of the Bureau of Mines deems necessary for the proper administration of title II. This latter provision is included in recognition of the fact that some mines must be inspected more often than once a year, in order to afford proper assurance of protection against major disasters; the requirement of annual inspections, it should be emphasized, is a minimum requirement.

*Subsection (b).*—This subsection which is designed to permit State cooperation with the Federal Bureau of Mines in the prevention of major coal mine disasters, consists of four paragraphs, as follows:

*Paragraph (1).*—This paragraph provides that in order to permit sound and effective coordination in Federal and State activities within the field covered by the bill, the Director shall cooperate with the official mine inspection or safety agencies of the several States.

*Paragraph (2).*—This paragraph provides that any State desiring to cooperate in making the inspections required by the bill may submit, through its official mine inspection or State agency, a State plan for carrying out such purposes. Such State plan shall: (a) Designate the State mine inspection or safety agency as the sole agency responsible for administering the plan within such State and contain satisfactory evidence that such agency will have the authority to carry out the plan; (b) give assurances that such agency has or will employ an adequate and competent staff of inspectors qualified under the laws of such State to make mine inspections within such State; (c) give assurances, that upon request of the Director or upon request of an operator, under section 203 (e) (1), the agency will assign inspectors employed by it to participate in inspections to be made in such State under the bill; and (d) provide that the agency will make reports to the Director, in such form and containing such information as the Director from time to time may require.

*Paragraph (3).*—This paragraph provides that the Director shall approve any State plan or any modification thereof which complies with the provisions of paragraph (2) of this subsection. He shall not finally disapprove any State plan or modification thereof, without first affording the State agency reasonable notice and opportunity for hearing.

*Paragraph (4).*—This paragraph provides that whenever the Director, after reasonable notice and opportunity for hearing to the State agency, finds that in the administration of the State plan there is (a) a failure to comply substantially with any provisions of the State plan; or, (b) a failure to afford reasonable cooperation in administering the provisions of the bill, he shall notify such agency of his withdrawal of such plan and upon receipt of such notice the plan shall cease to be in effect.

*Paragraph (5).*—This paragraph provides that no inspection of a mine shall be made by a representative of the Bureau under the bill

in any State in which a State plan is in effect unless a State inspector participates in the inspection in accordance with such plan, except where, in the Director's judgment, inspection is urgently needed to determine whether a danger described in section 203 (a) exists in such mine, and participation by a State inspector would unreasonably delay such inspection.

*Subsection (c).*—This subsection, similar to section 3 of the present act, provides that the Director, any duly authorized representative of the Bureau, any State inspector assigned in accordance with a State plan, or any independent inspector appointed under section 203 (e) (3) shall be entitled to admission to any mine covered by the bill for the purpose of making any inspection authorized by the bill.

*Section 203. Findings and orders*

*Subsection (a).*—Paragraph (1) of this subsection provides that if a Bureau of Mines' inspector, upon inspecting a mine under section 202, finds danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in the mine immediately or before the imminence of the danger can be eliminated, he shall make an order requiring the operator to cause all persons (with certain exceptions referred to below) to be withdrawn from, and to be debarred from entering, the area throughout which the danger exists. Before making the order, he must find the extent of such area. His findings and order must contain a description of such area and of the conditions which he finds constitute the danger. Paragraph (2) provides that the order shall not apply with respect to the following persons: (A) any person whose presence in the area is necessary, in the operator's judgment, to eliminate the danger; (B) any public official whose official duties require him to enter the area; or (C) any legal or technical consultant, or any representative of the employees of the mine, who is, or is accompanied by, a "certified person qualified to make mine examinations," and whose presence in the area is necessary, in the operator's judgment, for the proper investigation of the conditions described in the order. The term "certified person qualified to make mine examinations" means a person qualified under applicable State law to make mine examinations, except that in a State which has no such law, it means a person deemed by the operator to be qualified to do so.

*Subsection (b).*—This subsection provides that if the Bureau of Mines' inspector finds that section 209 is violated and that the conditions created by the violation do not cause immediate danger of a disaster as described in subsection (a), he shall find what would be a reasonable period of time within which the violation should be totally abated. His finding must contain the provision allegedly violated, and a description of the conditions constituting the violation.

*Subsection (c).*—This subsection provides that where a violation of section 209 has been found as described in subsection (b) a special inspection must be made (1) at the end of the time limit originally fixed for abatement of the violation, (2) at the end of any extension of such period, and (3) upon request of the operator, at any previous time. Upon making a special inspection, the inspector must find whether the violation has been totally abated, and if not, whether the time limit for abatement should be extended. If he finds that it should be extended, he must find what a reasonable extension would be. If he finds that the violation has not been totally abated, and if the time limit for

abatement has expired and he finds that it should not be extended, he is required to make findings and an order identical with those provided for in subsection (a) in cases of immediate danger of a disaster, except that the findings and order under this subsection deal with the violation involved, rather than the danger referred to in subsection (a).

*Subsection (d).*—This subsection provides that if the Bureau of Mines' inspector, upon inspecting a mine under section 202, finds that methane has been ignited in such mine or finds methane by the use of a permissible flame safety lamp or by air analysis in an amount of 0.25 percent or more in any open workings when tested at a point 12 inches or more from the roof, face, or rib, he shall make an order requiring the mine to be operated in compliance with the provisions of section 209 which pertain to gassy mines.

*Subsection (e).*—This subsection relates to joint Federal-State inspections in those States in which a State plan is in effect.

*Paragraph (1).*—This paragraph provides that if an order is made closing a mine in such a State for danger of immediate disaster, and a State inspector did not participate in the inspection on which the order is based (as may be the case where an inspection is urgently needed to determine whether such danger exists, and participation by a State inspector would unreasonably delay the inspection) the operator of the mine may request the State agency to assign a State inspector to inspect the mine. The State inspector assigned must inspect such mine promptly after the request is made. It should be pointed out that in any event the mine remains closed and this paragraph merely affords the operator of the mine the choice of having the mine inspected by a State inspector while it is closed. The operator's appeal from the order closing the mine is directly to the Review Board as provided by paragraph (4) of this subsection.

*Paragraph (2).*—This paragraph provides that no order shall be made closing a mine in such a State on account of a violation of section 209 which does not create danger of immediate disaster, unless a State inspector or an independent inspector appointed under paragraph (3) concurs in the order. In deciding whether to concur in such order, the State inspector and the independent inspector will be governed by the Federal standards as set forth in title II. If the State inspector does not concur in such order, the operator of the mine, the duly authorized representative of the Bureau who proposes to make such order, or the State inspector may apply, within 24 hours after the inspection is completed, for the appointment of an independent inspector under paragraph (3). Within 5 days after the date of his appointment the independent inspector shall inspect the mine. The representative of the Bureau and the State inspector shall be given the opportunity to accompany the independent inspector during his inspection. Upon the completion of such inspection if either the independent inspector or the State inspector concurs in the order it shall be issued. It should be emphasized that this paragraph does not interfere in any way with closing a mine on account of danger of immediate disaster; it does, however, prevent the closing of a mine where there is no such danger and neither a State inspector nor an independent inspector agrees that the closing order is authorized under this title.

*Paragraph (3).*—This paragraph requires the appointment of the independent inspector within 5 days after the date of receipt of an



application under paragraph (2) above by the chief judge of the United States district court for the district in which the mine involved is located, or in his absence by the clerk of such court. The independent inspector shall be a graduate engineer with experience in the coal-mining industry. This paragraph provides for compensation of such inspector.

*Paragraph (4).*—This paragraph requires that in a State in which a State plan is in effect, appeal from an order closing the mine under either subsection (a) or (c) of this section (including an order issued after a State or independent inspector has concurred therein as provided in paragraph (2)) shall be subject to review by the Board under section 207 but not by the Director under section 206.

*Subsection (f).*—This subsection provides that notice of each finding and order made under section 203 shall promptly be given to the operator of the mine to which it pertains, by the inspector who makes it.

#### *Section 204—Notices*

*Subsection (a).*—This subsection provides that all findings and orders made under section 203 or section 206, and all notices required to be given of the making of such findings and orders, shall be in writing. Each finding and order must be signed by the person making it, and each notice by the person required to give it. Each notice must contain a copy of each finding and order to which it refers.

*Subsection (b).*—This subsection provides for the method of notifying an operator of a finding or order made under section 203 or 206. This notice must be delivered to the mine office, and be posted on the mine bulletin board of the mine to which it pertains.

*Subsection (c).*—This subsection provides that a copy of each such notice shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State or Territory charged with administering State or Territorial laws, if any, relating to mine safety in such mine.

#### *Section 205—Creation of a Review Board*

*Subsection (a).*—This subsection creates a Federal Coal Mine Safety Board of Review, to be composed of three members, appointed by the President by and with the advice and consent of the Senate.

*Subsection (b).*—This subsection provides that the members of the Board shall have the 3-year terms, with the term of one member expiring each year. Any member may be removed for inefficiency, neglect of duty, or malfeasance in office.

*Subsection (c).*—This subsection provides for the compensation (\$50 for each day of service, plus reimbursement for travel expense) and qualifications of Board members. One member shall represent the viewpoint of coal-mine operators, and one the viewpoint of coal-mine workers. The third, who shall be chairman, shall either be a graduate engineer with experience in the coal-mining industry, or have had at least 5 years' experience as a practical mining engineer in the industry; he must not have had a pecuniary interest in, or have been regularly employed by or engaged in, coal mining, or have regularly represented coal-mine operators or workers, or have been an officer or employee of the Bureau of Mines, within 1 year of his appointment.



*Subsection (d).*—This subsection provides that the principal office of the Board shall be in the District of Columbia, but that it may sit and act at any other place to promote the convenience of the public or the parties, or minimize delay or expense.

*Subsection (e).*—This subsection provides for the appointment of a secretary and legal counsel without regard to the civil-service laws, and for the appointment of other necessary personnel. Compensation of all personnel shall be fixed in accordance with the Classification Act of 1949.

*Subsection (f).*—This subsection provides that two members of the Board shall constitute a quorum and that the Board may act only on the affirmative vote of at least two members; but any one member or any two members upon the order of the Board shall conduct hearings under section 207 and submit the transcript of such hearings to the full Board for action. Each official act of the Board shall be entered on record and its hearings and records thereof shall be open to the public.

*Subsection (g).*—This subsection provides that the Board shall hear and determine applications under section 207 for annulment and revision of orders made under section 203 or 206. No inspection of a mine shall be made by or for the Board for the purpose of determining any pending application.

*Subsection (h).*—This subsection authorizes the Board to make rules governing its proceedings. Such rules shall include requirement for adequate notice of hearings to all parties.

*Subsection (i).*—This subsection authorizes any member of the Board to sign and issue subpoenas, and to administer oaths, and provide for the payment of fees and mileage to witnesses summoned before the Board.

*Subsection (j).*—This subsection provides for the taking of depositions in connection with proceedings before the Board, and for the payment of witnesses whose depositions are taken and the persons taking such depositions.

*Subsection (k).*—This subsection provides for enforcement proceedings in Federal district courts in case of contumacy by, or refusal to obey a subpoena served upon, any person under this section.

#### *Section 206—Review by Director*

*Subsection (a).*—This subsection provides that an operator notified of an order made under section 203 (a), closing an area of a mine because of immediate danger of a disaster, may apply to the Director for annulment or revision of the order. Thereupon a special inspection of the mine affected by the order must be made by the Director, or by three Bureau of Mines' inspectors other than the inspector who made the order. Upon making such an inspection himself, or upon receiving the report of three inspectors, the Director must find whether or not danger throughout the area of the mine as set out in the order existed at the time of making the special inspection. If he finds that it did not, he must revise or annul the order, in accordance with his findings. If he finds that it did, he must deny the application for relief.

*Subsection (b).*—This subsection provides that an operator notified of an order made under section 203 (c), closing an area of a mine for failure to abate a violation of section 209, may apply to the Director

for annulment or revision of the order. Upon receipt of such an application a special inspection must be made in the same manner as provided in subsection (a). Thereupon the Director must find whether or not there was a violation of section 209 as described in the order at the time the order was made. If he finds there was not, he must annul the order. If he finds there was, he must find whether it was totally abated at the time the special inspection was made, and if he finds it was he must annul the order. If he finds the violation was not then totally abated, he must find whether the time limit for abatement should be extended and if so, what a reasonable extension would be, and he must also find the extent of the area of the mine affected by the violation at the time the special inspection was made; he must then revise or affirm the order, in accordance with his findings.

*Subsection (c).*—This subsection provides that an operator notified of an order made under section 203 (d) may apply within 20 days after notice of such order to the Director for its annulment. Upon receipt of such application the Director shall make such investigation as he deems necessary; thereafter, the Director shall find whether or not methane has been ignited in such mine, or whether or not methane was found in such mine in an amount of 0.25 percent or more in any open workings, when tested at a point of 12 inches or more from the roof, face, or rib, at the time of the making of the order. If he finds that methane has not been ignited and was not found in such mine as set out in the order he must annul the order under review. If he finds that methane has been ignited or was found in such mine as set out in the order he must deny the application.

*Subsection (d).*—This subsection provides that notice of each finding and order made under section 206 shall be given promptly to the operator of the mine to which it pertains.

*Subsection (e).*—This subsection provides that at any time an order closing an area of a mine is in effect, or at any time a proceeding seeking annulment or revision of such an order is pending before the Board under section 207 or before a court of appeals or the Supreme Court under section 208, the operator of the mine affected by the order may apply to the Director for review under section 206.

*Subsection (f).*—This subsection requires that action be taken upon applications under section 206 as rapidly as practicable, consistent with adequate consideration of the issues involved.

#### *Section 207—Review by Board*

*Subsection (a).*—This subsection provides that an operator notified of an order closing an area of a mine, or classifying a mine as a gassy mine, may apply to the Federal Coal Mine Safety Board of Review for annulment or revision of the order without first applying to the Director for annulment or revision under section 206. Moreover, an operator notified of an order made by the Director under section 206 may apply to the Board for annulment or revision of that order.

*Subsections (b) and (c).*—These subsections prescribe the procedure for instituting a review proceeding before the Board. The operator may allege in the application (1) that the danger described in the order does not exist; (2) that violation of section 209, as set out in the order, has not occurred; (3) that such violation has been totally or partially abated; (4) that the time limit fixed for abatement was not reasonable; (5) that the area described in the order as affected by

the violation is not so affected; (6) or that the mine described in the order is not a gassy mine.

*Subsection (d).*—This subsection authorizes the Board to give such temporary relief from the order under review as it deems just and proper, but only if the Director is given ample notice of the request for temporary relief and of the time and place of a hearing thereon, and both the Director and the operator are afforded an opportunity to be heard at the hearing.

*Subsection (e).*—This subsection provides that the Board shall not be bound by previous findings of fact by the Director or any other representative of the Bureau, but shall take evidence on the issues from both sides. If the Director claims that danger or a violation of section 209, as set out in the order under review, existed at the time the operator's application for relief was filed or that methane has been ignited or found in such mine as set out in the order under review, he has the burden of proving it, and must present his evidence first to prove it. Then the operator may present his evidence, and then the Director may offer evidence to rebut the operator's evidence.

*Subsection (f).*—This subsection provides that if the operator seeks annulment or revision of an order made under section 203 (a) (that is, an order closing an area of a mine because of imminent danger of disaster) the Board shall find whether or not danger throughout the area of the mine as set out in the order existed at the time the operator's application for relief was filed. If the Board finds that it did not, it must revise or annul the order, in accordance with its findings. If it finds that such danger did then exist, it must deny the application for relief.

*Subsection (g).*—This subsection provides that if the operator seeks annulment or revision of an order made under section 203 (b) (that is, an order closing an area of a mine for failure to abate a violation of section 209) the Board shall find whether or not there was a violation of section 209 as described in the order, at the time the order was made. If it finds there was not, it must annul the order. If it finds there was, it must also find whether the violation was totally abated at the time the operator's application for relief was filed. If it finds the violation was totally abated at that time, it must annul the order. If it finds the violation was not totally abated, it must find whether the time limit for abatement should be extended and if so, what a reasonable extension would be, and it must also find the extent of the area affected by the violation at the time the application for review was filed; it must then revise or affirm the order, in accordance with its findings.

*Subsection (h).*—This subsection provides that if the proceeding is one in which the operator seeks annulment of an order made under section 203 (d) or 206 (c) the Board after concluding its hearings shall find whether or not methane has been ignited in such mine or was found in an amount of 0.25 per centum or more in any open workings of such mine when tested at a point 12 inches or more from the roof, face, or rib as set out in such order. If the Board finds that methane has not been ignited and was not found in such mine as set out in such order it must annul the order under review. If it finds that methane has been ignited or was found in such mine as set out in the order under review, it shall deny the application.

*Subsection (i).*—This subsection provides that each of the Board's findings and orders shall be in writing; shall show the date it is made; shall bear the signature of each concurring Board member; and shall be entered on the Board's official record, together with any opinions supporting or dissenting from any finding or order. A true copy of each finding and order must be sent by registered mail to all parties or their attorneys of record.

*Subsection (j).*—This subsection requires the Board to act upon applications for relief under section 207 as rapidly as practicable, consistent with adequate consideration of the issues involved.

#### *Section 208—Judicial review*

*Subsection (a).*—This subsection provides that any final order issued by the Board under section 207 shall be subject to review by the United States court of appeals for the circuit in which the mine affected is located, if notice of appeal is filed by the Director or the operator aggrieved by the order within 30 days from the date it is made.

*Subsection (b).*—This subsection provides for notice of appeal to be given to the opposite party and to the Board, and for filing in court a transcript of the record upon which the order complained of was made.

*Subsection (c).*—This subsection provides that the court shall hear the appeal on the record made before the Board; shall permit argument by both parties; and shall permit such pleadings as it deems to be required or as provided for in the applicable Rules of Civil Procedure.

*Subsection (d).*—This subsection authorizes the court to postpone the effective date of the order under review or to grant other appropriate relief pending final determination of the appeal, on such conditions as may be required and to the extent necessary to prevent irreparable injury, after due notice of hearing.

*Subsection (e).*—This subsection provides that the court may affirm, annul, or revise the order under review, or remand the proceedings to the Board for further action. The findings of the Board as to facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

*Subsection (f).*—This subsection provides that the court's decision shall be final, subject only to review by the Supreme Court.

#### *Section 209—Mine safety provisions*

This section contains specific safety provisions pertaining to the operation of mines. Consistent with the general purpose of the bill as indicated by the caption of title II, that is, the Prevention of Major Disasters in Mines, these safety provisions are to prevent mine explosions, mine fires, mine inundations, and man-trip and man-hoist accidents, the occurrence of which generally causes major mine disasters. The operation of mines in conformity with these provisions should eliminate the causes of most of such disasters, and should therefore greatly reduce the number of such disasters.

*Subsection (a)—Duty to comply.*—This subsection requires every operator of a mine and every person who is on the premises of a mine for any reason whatsoever to comply with the provisions of this section, except those provisions which impose no duty, obligation or responsibility on them. Some of the provisions of other subsections of section 209 impose duties, obligations or responsibilities upon the operator of a mine; others impose duties, obligations or responsibilities



upon agents or employees of such operator; and others impose duties, obligations or responsibilities upon persons other than the operator or his agents or employees.

*Subsection (b)—Gassy mines.*—This subsection provides that every operator of a mine which, on or after the effective date of this title, is, or which immediately prior to the effective date of this title, was, defined, classed, classified as, or determined, deemed, judged, or found to be, a gassy mine under the laws of the State in which it is located, and every operator of a mine, which immediately prior to the effective date of this title was operated as a gassy mine, shall comply with the provisions of this section which pertain to gassy mines. This subsection is intended to make it clear that mines which have been determined to be gassy mines under State law, or which have been operated as gassy mines, shall be operated as gassy mines in accordance with the provisions pertaining to such mines as contained in this section.

*Subsection (c)—Roof support.*—This subsection provides that the roof and ribs of all active underground roadways and travelways in a mine shall be adequately supported to protect persons from falls of roof or ribs.

The principal purpose of this subsection is to protect against man-trip accidents. Man-trips generally are the trips by which workmen are moved into and out of the underground areas of a mine at the beginning and ending of working shifts. On such trips many workmen often travel in a group in close proximity to each other. While so traveling they have no opportunity to examine the roof over, or the walls along the sides of, the roadway or travelway along which they travel, to ascertain if portions thereof are loose and likely to fall upon them. If the roof or ribs of the roadway or travelway along which they are traveling falls, it may kill or injure many of them. If such workmen are traveling on such roadways or travelways in a man-trip of cars traveling on rails and propelled by electricity, and a section of roof or rib falls upon them, it may not only kill or injure many persons, but it may also cause derailment and wrecking of cars, and mine fires ignited by sparks for short-circuited electric wires.

Obviously this subsection does not apply to the support of roof and ribs everywhere throughout the underground areas of a mine. Nor does it apply to the roof and ribs of all underground roadways and travelways in a mine. It applies to the roof and ribs of *active* underground roadways and travelways. Active roadways and travelways means such roadways and travelways as are in use as distinguished from those which are not in use. The roof and ribs of such roadways and travelways must be adequately supported to protect persons from falls of such roof and ribs. The requirement of such adequate support should not be construed to require that such roof and ribs must necessarily be supported by artificial support. If the natural support of such roof and ribs is adequate to protect persons from falls of such roof and ribs, artificial support would not be required. Nor should this subsection be construed to authorize a Federal coal-mine inspector to require an operator of a mine to provide any particular kind or type of roof or rib support.

*Subsection (d)—Ventilation.*—This subsection, which is designed to prevent mine disasters resulting from accumulations of gas in underground areas of mines, consists of 11 paragraphs, as follows:



*Paragraph (1).*—The first sentence of this paragraph prescribes the quality of air required in the current of air which must be provided to ventilate active underground working places in a mine. It provides that such air shall contain not less than 19.5 percent of oxygen, not more than 0.5 percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

The second sentence of this paragraph prescribes the quantity of air which such current of air shall contain. It provides that the volume of such current of air shall be sufficient to dilute so as to render harmless, and to carry away, flammable or harmful gases which may be present at active underground working places which it ventilates.

The third sentence specifically prescribes the quantity of air which a ventilating current of air in a bituminous-coal or lignite mine shall contain when it reaches the last open crosscut in any pair or set of entries. It provides that at such places the volume of such current of air shall not be less than 6,000 cubic feet of air per minute. The sentence then makes an exception in connection with the quantity of air which a ventilating current of air shall contain when it reaches the last open crosscut in any pair or set of entries in pillar sections. It provides that at such places the volume of such current of air may be less than 6,000 cubic feet of air per minute if not less than 6,000 cubic feet of air per minute is being delivered to the intake end of the pillar line.

The fourth sentence specifically prescribes the quantity of air which a ventilating current of air in an anthracite mine shall contain when it reaches the face of each working place. It provides that at such a place the volume of such current of air shall be at least 200 cubic feet of air per minute for each man working in the place and as much more as may be required to dilute, render harmless, and sweep away noxious or dangerous gases, smoke, and fumes.

The fifth sentence provides that in robbing areas where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

*Paragraphs (2), (3), and (4).*—These paragraphs all relate to precautions which must be taken when excessive amounts of methane are detected.

Paragraph (2) is designed to prevent explosive accumulations of methane at an underground working face in a mine. Such a "working face" is well understood in the parlance of the coal-mining industry, to mean a place in a mine at which work of extracting coal from its natural deposit in the earth is being done. The paragraph provides that when the air at an underground working face in a mine contains more than 1 percent of methane as determined by recognized means of accurately detecting such gas, changes shall be made at once in the ventilation in the mine so that such air shall not contain more than 1 percent of methane. Air which contains less than 5 percent of methane is not explosive. However, safety requires that when air at the working face of an underground mine is found to contain more than 1 percent of methane, something should be done to reduce the percentage of methane in such air. This paragraph requires that changes or adjustments shall be made at once in the ventilation in such mine so that such air shall not contain more than 1 percent of methane. Normally the only change or adjustment in the ventilation required would be a change or adjustment which would increase the volume of

air in the current of air which ventilates the working face at which such methane is found.

The requirement that changes or adjustments shall be made in the ventilation in such mine, should not be interpreted to mean that a Federal mine inspector can order a mine operator to make any particular kind of change or adjustment in the ventilation. Nor should it be interpreted to mean that such an inspector can order a mine operator to make any particular change in the ventilating system or in the ventilating equipment or machinery in the mine.

Paragraph (3) provides that if a split of air returning from active underground working places in a mine contains more than 1 percent of methane as determined by recognized means of accurately detecting such gas, changes shall be made at once in the ventilation in the mine so that such returning air shall not contain more than 1 percent of methane. A "split of air" in coal-mining parlance, is an air current in a mine formed by dividing a larger air current. A split of air "returning" from active working places in a mine means a ventilating current of air which, on its course through the mine, has ventilated the active working places it was designed to ventilate, and is on its course toward the exit from the underground areas of the mine and its return to the air outside such underground areas. So the paragraph means that when the air in a split of air in a mine which has completed its task of ventilating the active underground working places it was designed to ventilate, and is proceeding toward its exit from the mine, contains more than 1 percent of methane, changes shall be made at once in the ventilation in the mine so that such air shall not contain more than 1 percent of methane. As stated in connection with paragraph (2) of this subsection, the required change can normally be made by adjusting the ventilation so that the volume of the air in such split is increased sufficiently to dilute the methane which it contains so that the percentage of methane in such air shall be less than 1 percent. This is a safety precaution required to insure that the quantity of air in such split shall be sufficient to prevent an explosive accumulation of methane at any of the working faces which such split of air ventilates.

Paragraph (4) provides that if a split of air returning from active underground working places in a mine contains 1.5 percent of methane, as determined by recognized means of accurately detecting such gas, the employees shall be withdrawn from and all electric power shall be cut off from, the portion of the mine endangered thereby, until the quantity of methane in such air shall be less than 1.5 percent.

While air containing 1.5 percent of methane is not explosive, its presence in that amount in air returning from active underground working places in a mine indicates that considerably larger amounts of methane may be accumulating in the air at places in the mine through which the current of air in such split has passed. Safety requires that employees be withdrawn from the portion of the mine which is endangered by the possibility of an explosion of any such accumulation of methane and that all electric power be cut off from such portion of the mine, until the cause of the high percentage of methane in such returning air is ascertained and the quantity of methane in such returning air is reduced to less than 1.5 percent.

This paragraph excepts from the provisions above referred to, splits of air returning from active underground working places in virgin

territory in mines. The phrase, "active underground working places in virgin territory" means working places in a block or seam of coal in which the extraction of coal is in its early stages. In such situations the newly opened coal often liberates large quantities of methane for relatively short periods of time until a substantial part of such methane in the coal bed has been drained off. As to the quantity of methane in splits of air returning from such working places, the paragraph provides that if the percentage of methane in such air exceeds 1.5 percent, and if the mine is ventilated by an exhaust fan, and the volume of air delivered to such working places is at least 12,000 cubic feet per minute, and only permissible electric equipment is used in such workings, and the air in such split returning from such workings does not pass over trolley or other bare electric wires, and a qualified person designated by the mine operator is continually testing the gas content of such returning air, it shall not be necessary to withdraw employees or cut off all electric power from the portion of the mine endangered thereby, unless such air contains more than 2 percent of methane.

*Paragraphs (5) and (6).*—These paragraphs provide that air which (1) contains more than 0.25 percent methane and has passed by an opening of an unsealed, abandoned area, or (2) has passed through an abandoned panel (or similar area) which is inaccessible for inspection, or (3) has been used to ventilate a pillar line or an area from which the pillars have been removed, shall not be used to ventilate active face areas in gassy mines. They also provide that if such air contains more than 1 percent methane it shall not be used to ventilate any areas in gassy mines in which men work or travel. If in any mine these provisions cannot be complied with on the effective date of section 209, it is provided that existing operations may be continued for a reasonable time until they can be complied with.

The word "abandoned" when used as it is used in the first sentence of this paragraph to describe an area of a mine, may generally be understood to mean an area of the mine from which the operator has removed all coal or other material, or as to which the operator has given up and abandoned any intent to remove coal or other material and intends never again to remove coal or other material from such area. However, note must always be taken of express language which would give the word "abandoned" a different meaning than the general meaning above stated. An example of such express language is found in the last sentence of this paragraph which provides: "For the purposes of this paragraph, an area within a panel shall not be deemed to be abandoned until such panel is abandoned."

In earlier years it was not the practice to seal abandoned areas of underground mines. Therefore there are now many mines having abandoned areas which are unsealed. In many of such old abandoned unsealed areas methane, which may have been present in the coal which remained in such areas after their abandonment, has since escaped from such coal, and no methane is now being liberated therefrom. However, in some of such old abandoned unsealed areas some methane may still be present. It is now impractical, if not actually impossible, to seal many of such old areas, or to ventilate them so as to carry away flammable gases. In many mines containing such old areas the ventilation system is such that a current of air intended to ventilate active working places must pass by openings to such unsealed abandoned areas before it reaches the active working

places it is designed to ventilate. As a precaution against danger that such air currents might carry explosive accumulations of methane to active working places in a mine unless carefully guarded against, this paragraph provides that such air currents may not be used to ventilate active face areas in the mine if such air contains 0.25 percent or more of methane.

The reference in this paragraph to abandoned areas of a gassy mine relates only to areas abandoned prior to the effective date of this paragraph. This is quite clear because paragraph (11) of this subsection 209 (c) provides that in a gassy mine all workings which are abandoned after the effective date of section 209 shall be sealed or ventilated.

Doubtless there are many gassy mines containing unsealed abandoned areas which were abandoned long before this paragraph becomes effective. In some of such mines it would be impossible to comply with the provisions of this paragraph immediately upon the effective date of this paragraph. Therefore this paragraph also provides that if its provisions cannot be complied with in a gassy mine on their effective date, such mine may be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with the provisions of this paragraph. However, in order to insure that such continued operation will not result in the toleration of risks of explosions which should in no event be tolerated, the paragraph further provides that in no event shall air in a current of air which has passed by an opening of any unsealed abandoned area in a gassy mine (abandoned prior to the effective date of this paragraph), be used to ventilate any area in such mine in which men work or travel, if such air contains more than 1 percent of methane.

Paragraph (6) provides that in gassy mines air which has passed through an abandoned panel or similar abandoned area, which is inaccessible for inspection, or air which has been used to ventilate a pillar line, or an area from which pillars have been removed, shall not be used to ventilate any active face area.

Air in abandoned panels or similar abandoned areas which are inaccessible for inspection is likely to contain methane, and the amount of methane present cannot be determined because of the inability to make inspections. It is dangerous to use such untested air for ventilating face areas, because face areas, themselves, frequently liberate methane in considerable amounts and the total of the two possible quantities of methane might make an explosive accumulation of methane. Air which has been used to ventilate pillar lines or areas from which pillars have been removed, also, frequently contains methane and the use of such air to ventilate active face areas might also produce dangerous conditions.

However, by reason of the construction and character of the ventilation system of a mine, it may be impractical or even impossible for an operator of a mine to comply with the provisions of this paragraph immediately on its effective date. The paragraph therefore, contains provisions which would permit such operator to continue to operate such mine after such effective date as it was operated immediately prior thereto, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this subsection. It further provides, however, that in no event shall air



which has passed through abandoned panels or similar abandoned areas which are inaccessible for inspection or air which has been used to ventilate pillar lines or areas from which pillars have been removed, which contains more than 1 percent of methane, be used to ventilate any areas of mines in which men work or travel.

*Paragraphs (7), (8), (9), and (10).*—These paragraphs provide for regular examinations of the underground areas in mines. Except as otherwise noted below, these examinations are to be made by “certified persons” (see the explanation of this term in the explanation of section 201) designated by the operator to do so.

Paragraph (7) relates to gassy mines, and provides that such an examination shall be made within 4 hours before the beginning of each coal-producing shift, before any workmen in the shift enter any underground area of the mine. The examination covers such matters as tests for methane, inspection of roof, face, and rib conditions, and checks to see that the ventilating currents are traveling in proper course and normal volume. If the examiner finds a dangerous condition, he is required to post a sign warning of the danger; the dangerous place is thereby closed to all persons except mine inspectors and persons authorized to enter to eliminate the danger. Provision is made for recording the examiner’s reports.

The examination referred to above must be made before each coal-producing shift; to protect any person who enters a gassy mine at any other time, the last sentence of paragraph (7) provides that each underground area he enters must have been examined in the same manner within 12 hours before his entrance into such area. Under this sentence, examinations must be made of each place the person enters, and of so much of the surrounding area as may be necessary to provide reasonable protection against the hazards which the bill is designed to prevent.

Paragraph (8) provides that nongassy mines shall be examined in the same manner at least once in each day during which coal is produced, within 4 hours before the first coal-producing shift begins. Gas explosions rarely occur in nongassy mines. Therefore an examination of such a mine made before a working shift enters the mine on a calendar day on which coal is produced, is deemed to provide all that is reasonably required in the way of examination of such mines, to protect against the occurrence of major disasters.

Paragraph (9) provides that the underground working places in all mines shall be examined for hazards at least once during each coal-producing shift, or oftener if necessary; in gassy mines, such examinations shall include tests for methane and oxygen deficiency. Provision is also made for tests for methane where electrically driven equipment is used in gassy mines; these tests shall be made with a permissible flame safety lamp by a person trained in its use, rather than by a “certified person.”

Conditions which cause major mine disasters can result from improper or careless methods or practices in the actual extraction of coal at the working faces. Excessive amounts of coal dust may be raised into the air, coal dust and loose coal may be allowed to accumulate on the ground, or dangerous quantities of methane may be allowed to accumulate at the face. Frequent examinations by qualified persons for such hazards, or any others, should greatly minimize the occurrence of major mine disasters.

Paragraph (10) provides that in a gassy mine, before a roof fall is made in pillar workings, they shall be examined to find whether methane is present; if methane can be detected by a permissible flame safety lamp, it must be removed before a roof fall may be made. Examinations under this paragraph are not required to be made by a "certified person."

"Pillar workings" means workings by which coal is extracted from its natural deposits in the earth by the pillar method of mining. "Pillar method of mining" means a method of mining by which all of the coal in the area being mined is removed, as distinguished from other methods of mining by which part of the coal in the area being mined is removed and part of the coal is left standing in the form of pillars to support the roof below which coal has been removed. In the pillar method of mining the roof above open space from which coal has been removed, is purposely caused to fall, to relieve the pressure above such unsupported roof.

This paragraph requires that methane which may be present in open space under unsupported roof in pillar workings must be removed before such roof is caused to fall because a fall of the roof might force such gas out of the area being mined and into other areas of the mine where it might be ignited and cause an explosion.

*Paragraph (11).*—This paragraph provides that workings abandoned in a gassy mine shall be sealed or ventilated. The purpose of this provision is to provide that methane in areas of a mine which are abandoned after the effective date of this paragraph will either be carried away by a current of air adequate to prevent the accumulation of large quantities of such methane in such abandoned areas, or such methane will be confined in such abandoned areas by substantial seals and prevented from entering the air in other areas of the mine where it might be ignited. The operator will have the option of either sealing or ventilating such abandoned areas.

This paragraph further provides that if the operator chooses to seal such abandoned areas, the sealing shall be done in a substantial manner with incombustible material, and one or more of the seals of every sealed area shall be fitted with a pipe or valve to permit testing of gases or water confined behind such seals.

The paragraph further provides that workings within a panel shall not be deemed to be abandoned until the entire panel is abandoned.

*Subsection (e)—Coal dust and rock dust.*—Paragraph (1) provides that combustible materials shall not be permitted to accumulate in dangerous quantities in active underground workings of any mine.

The extraction of coal from the earth requires that it be broken into pieces small enough to be handled, loaded into conveyances, and carried out of the mine. Such operations necessarily result in the scattering of coal dust and pieces of loose coal about. The provisions of this paragraph would require that such coal dust and loose coal be removed from the mine as frequently and as completely as is necessary to prevent dangerous quantities from accumulating in active underground workings.

The avoidance of accumulations of large quantities of combustible materials greatly reduces the danger of fires or explosions.

Paragraphs (2), (3), (4), and (5) do not apply to anthracite mines, because anthracite coal dust is not explosive. Paragraph (2) provides that where underground mining operations raise excessive dust,

the dust shall be allayed at its source. Paragraphs (3), (4), and (5) require rock dusting except where the dust is too wet or too incombustible to propagate an explosion, and prescribe how rock dusting is to be done.

Paragraphs (3) and (4) provide that every underground mine, except those areas thereof in which the coal dust is too wet to burn or explode, or in which the incombustible content of the combined coal dust and other dust is so high that the coal dust will not burn or explode, shall be rock-dusted to points within 40 feet of all faces. That is, to points within 40 feet of the end wall at each working place from which coal is being extracted from its natural deposit in the earth.

Rock-dusting an area of a mine to a point less than 40 feet from a face is not practical, because dust is being created in such area most of the time men are working there. If a fire or an explosion occurs within 40 feet of a face such fire or explosion will not extend beyond a point 40 feet from such face if the area of the mine beyond 40 feet from such face is properly rock-dusted.

The paragraphs further provide that if there is an open crosscut (an open passageway which connects two other passageways) within 40 feet of a face, such open crosscut shall also be rock-dusted.

They provide, however, that back entries need be rock-dusted only in by a point 1,000 feet outby the junction of the back entry with the first active entry.

Paragraph (5) provides that where rock dust is applied, it shall be distributed upon the top, floor, and sides of all open places and maintained in such quantity that the incombustible content of the combined coal dust, rock dust, and other dust will not be less than 65 percent.

This paragraph further provides that where methane is present in any mine ventilating current of air, the 65-percent incombustible content of the combined dust shall be increased 1 percent for each one-tenth of 1 percent of methane present in such air current.

*Subsection (f)—Electrical equipment.*—This subsection makes provisions for the use of electrical equipment in gassy mines. Paragraph (1) provides that all electric-face equipment used in a gassy mine shall be permissible, unless the operator owned it, or the right to use it, or had ordered it, before the effective date of section 209 or the date the mine became gassy, whichever is later. Even where nonpermissible face equipment may be used, however, it may not be used to replace permissible equipment in use in a mine except under certain specified conditions.

The purpose of the first exception in this paragraph is to provide that the operator of a gassy mine, may use nonpermissible electric equipment at a face in such mine after the effective date of this paragraph, if such operator owned such nonpermissible equipment, or owned the right to use it, or had ordered it, prior to such effective date. The language of this exception does not require that the operator must have been using such nonpermissible equipment in such mine on the effective date of this paragraph, in order to use in such mine after the effective date of this paragraph. Nor does it require that such nonpermissible equipment must have been in any use whatsoever on the effective date of this paragraph. The language only requires that the operator must have owned the equipment on such effective date, or must have owned the right to use it, or must have ordered it, prior to the effective date of this paragraph, in order to lawfully use

it in a gassy mine after such effective date. The words "owned the right to use it" are intended to cover cases in which the operator may not have been the owner of nonpermissible equipment, but may have had a legal right to use it as a lessee, or a holder under a conditional sales agreement or any other legal agreement.

The limitation providing that the operator may not use any such nonpermissible equipment to replace permissible equipment in use in a gassy mine, means that the operator may not at any time remove from a gassy mine and use elsewhere, permissible electric equipment in use in such mine, and then use nonpermissible equipment to take the place of the permissible equipment so removed. However, the operator may interchange permissible and nonpermissible equipment in use in a mine. That means that an operator who is using both permissible and nonpermissible equipment in a particular mine, may move any of such equipment from one place to another place in such mine. He may move permissible equipment into a place in such mine in which place he theretofore used nonpermissible equipment, and may move nonpermissible equipment into a place in such mine in which place he theretofore used permissible equipment.

The proviso that explosion-tested cable-reel locomotives and shuttle cars purchased by an operator before permissible cable-reel locomotives and shuttle cars, is an exception to the limitation providing that an operator may not use nonpermissible equipment to replace permissible equipment. This exception was placed in this paragraph for the following reasons: Permissible cable-reel locomotives and shuttle cars became available only recently, when the United States Bureau of Mines certified to the permissibility of cable-reel locomotives and shuttle cars. Prior to that time such locomotives and shuttle cars were not "permissible," and therefore were not available. Until permissible cable-reel locomotives and shuttle cars became available only explosion-proof cable-reel locomotives and shuttle cars were available, that is obtainable by operators. When the Bureau finally certified cable-reel locomotives and shuttle cars to be permissible, it was found that there is practically no difference between permissible cable-reel locomotives and shuttle cars and explosion-proof cable-reel locomotives and shuttle cars. So, there is no sound reason why an operator should not be permitted to replace permissible cable-reel locomotives and shuttle cars with explosion-proof cable-reel locomotives and shuttle cars which he purchased prior to the effective date of this section.

Paragraph (2) provides that, in a gassy mine, only permissible junction or distribution boxes shall be used for making multiple-power connections in working places or other places where dangerous quantities of methane may be present.

It further provides, however, that where nonpermissible junction or distribution boxes, are in use, or on order, on the effective date of this section or the date on which an order is made requiring the operator of such mine to comply with the provisions of section 209, of title II, which pertain to gassy mines, whichever of such dates is later, their use may be continued until such time as replacements are made.

Junction or distribution boxes are boxes to house connections between two or more electric wires.

Paragraph (3) provides that, in a gassy mine, explosion-tested cable-reel locomotives shall be equipped with two-conductor trailing cables.



The purpose of this paragraph is to require that, when the current to operate such locomotives is being transmitted through a trailing cable, such cable must be a two-conductor cable, and the steel rails on which such locomotives run shall not be used as the ground or negative circuit for the locomotive.

Paragraph (4) provides that, in a gassy mine, trolley and feeder wires shall not extend beyond the last open crosscut and shall not be nearer than 150 feet to pillar workings.

Electric wires are potential sources of sparks and arcs. Areas of a mine beyond the last open crosscut and the areas in and about pillar workings are areas where methane often accumulates. The provisions of this paragraph are designed to remove potential sources of sparks from portions of a mine which may contain explosive mixtures.

*Subsection (g)—Fire protection.*—This subsection provides that each mine shall be provided with suitable fire-fighting equipment; that fire inspections be made after blasting operations performed on shift; that underground storage places for oil and grease in excess of 2 days' supply shall be of fireproof construction; that oil and grease kept in underground working places in a mine shall be in portable, closed, metal containers; that underground structures installed after the effective date of section 209 shall be of fireproof construction; and that certain precautions be taken where welding, cutting, or soldering, with arc or flame is done in underground face regions in other than a fireproof enclosure.

*Subsection (h)—Miscellaneous.*—This subsection provides that oil and gas wells penetrating coal beds or underground workings of mines shall be drilled and sealed in compliance with State statutes; that boreholes shall be drilled in advance of working places under certain specified conditions; that in a gassy mine smoking shall not be permitted underground nor shall any person be permitted to carry smoking materials, matches, lighters, underground; that only permissible electric lamps shall be used for portable illumination underground in a gassy mine; that black blasting powder shall not be stored, handled or used underground in any mine; and that unconfined shots shall not be fired underground in any mine. Provisions are also included covering the equipment, testing, inspection, and operation of hoists used to transport persons at a mine.

#### *Section 210—Penalties*

*Subsection (a).*—This subsection provides that an operator who willfully fails to comply with a closing order of which he has been notified shall be fined not more than \$2,000.

*Subsection (b).*—This subsection provides that an operator's agent who knows of a closing order and willfully directs, authorizes, or causes any person (other than one who is lawfully authorized to do so) to enter or be in the area affected by the order shall be fined not more than \$2,000.

*Subsection (c).*—This subsection provides that any person who knows of a closing order and without lawful authority enters or remains in the area affected by the order shall be fined not more than \$2,000.

*Subsection (d).*—This subsection provides that any person having control or supervision of a coal mine who refuses to admit the Director, any duly authorized representative of the Bureau, any State inspector

assigned in accordance with a State plan, or any independent inspector appointed under section 203 (e) (3), to such mine pursuant to section 202 (c) shall be fined not more than \$500.

*Section 211. Effect on State laws*

*Subsection (a).*—This subsection provides that no State or Territorial law shall be superseded by any provision of this Act, except to the extent that such law is in conflict with this title or with an order issued pursuant to this title.

*Subsection (b).*—This subsection, which is designed to emphasize that this title is in no case intended to limit or interfere with the effective promotion of mine safety, provides that provisions of State and Territorial law which provide for greater safety of persons on coal-mine premises than do provisions of this title relating to the same phases of mining operations, or which provide for the safety of persons on coal-mine premises in connection with phases of coal-mining operations not covered in this title, shall not be construed to be superseded by this title.

*Subsection (c).*—This subsection provides that nothing in this title shall be construed or held to supersede or in any manner affect the workmen's compensation laws of any State or Territory, or to enlarge or diminish or affect the common law or statutory rights, duties, or liabilities of employers and employees under State or Territorial laws in respect of injuries, occupational or other diseases or death of employees arising out of or in the course of employment.

*Section 212. Administrative provisions*

*Subsection (a).*—This subsection provides that whenever the Director determines that the construction of any equipment conforms to specifications prescribed by him to assure that such equipment will not cause a mine explosion or mine fire, he shall issue to the manufacturer of such equipment a certificate stating that the equipment has met such specifications, and authorizing the manufacturer to attach to such equipment and to all identical equipment an approval plate, label, or other device approved by the Director to indicate that the equipment conforms to such specifications.

*Subsection (b).*—This subsection provides for the appointment and compensation of personnel to carry out the new title II. Inspectors appointed under this subsection must have the basic qualifications of at least 5 years' practical experience in the mining of coal and be recognized by the Bureau as having the training or experience of a practical mining engineer in those essentials necessary for competent coal-mine inspection.

*Subsection (c).*—This subsection requires the Director to submit annually to the Congress, as soon as practicable after the beginning of each regular session, a full report of the administration of his functions under this title during the preceding calendar year, including the information obtained by him under this title together with such findings and comments thereon and such recommendations for legislative action as he may deem proper.

*Section 213. Exclusion from Administrative Procedure Act*

This section provides that the Administrative Procedure Act shall not apply to the making of any order pursuant to this title, or to any proceeding for the annulment or revision of any such order.

*Section 214.—Authorization of appropriations*

This section authorizes the appropriation of such sums, not exceeding \$3,000,000 in any fiscal year, as may be necessary for the due execution of this title.

*Section 215.—Severability*

This section provides that if any provision of this title, or the application thereof to any particular person or circumstance, is held invalid, the remainder of the title and the application of such provision to other persons or circumstances shall not be affected thereby.

## AMENDMENTS TO EXISTING PROVISIONS OF PUBLIC LAW 49

Sections 2, 3, and 4 of the bill amend the existing provisions of Public Law 49, which will become title I of that act. Except as provided in sections 2 and 3 of the bill, the existing powers of the Secretary of the Interior under Public Law 49 are unaffected by the bill.

*Section 2.—Failure to admit inspector*

Section 4 of Public Law 49 now provides that any person having control or supervision of any coal mine who refuses to admit a duly authorized representative of the Bureau for the purpose of making any inspection or investigation authorized by the act shall be fined not more than \$500 or imprisoned not more than 60 days, or both. In conformity with section 210 (d) of the new title II, section 2 of the bill eliminates the penalty of imprisonment, leaving this offense subject to a penalty of \$500 fine.

*Section 3.—Information concerning accidents in mines*

Section 5 of Public Law 49 now requires each person having control or supervision of a coal mine subject to the act to furnish information, upon request of the Secretary of the Interior or any duly authorized representative of the Bureau, concerning any accident involving bodily injury or loss of life which occurred in such mine during the calendar year in which the request is made or during the preceding calendar year. Section 3 of the bill amends this section to limit this requirement to accidents occurring during the 6-month period preceding the request, and to provide for a fine of \$500 for willful violations of the section.

*Section 4.—Technical amendments*

Section 4 of the bill provides that Public Law 49 may be cited as the Federal Coal Mine Safety Act, and makes a number of technical amendments necessary to convert the existing provisions of that act into title I of the act, so that the new provisions added by the bill may be inserted as title II of the act.

## CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## PUBLIC LAW 49—77TH CONGRESS

AN ACT Relating to certain inspections and investigations in coal mines for the purpose of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Mine Safety Act".*

**TITLE I—ADVISORY POWERS RELATING TO HEALTH AND SAFETY CONDITIONS IN MINES**

【That the】 *Sec. 101.* The Secretary of the Interior, acting through the United States Bureau of Mines, is hereby authorized and empowered to make or cause to be made annual or necessary inspections and investigations in coal mines the products of which regularly enter commerce or the operations of which substantially affect commerce—

(a) For the purpose of obtaining information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life in such mines, or the causes of occupational diseases originating in such mines, whenever such health or safety conditions, accidents, or occupational diseases burden or obstruct commerce or threaten to burden or obstruct commerce.

(b) For the purpose of obtaining information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life in such mines, or the causes of occupational diseases originating in such mines, as a basis for determining the most effective manner in which the public funds made available for the protection or advancement of health or safety in coal mines, and for the prevention or relief of accidents or occupational diseases therein may be expended for the accomplishment of such objects.

(c) For the purpose of obtaining information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life in such mines, or the causes of occupational diseases, originating in such mines, as a basis for the preparation and dissemination of reports, studies, statistics, and other educational materials pertaining to the protection or advancement of health or safety in coal mines and to the prevention or relief of accidents or occupational diseases in coal mines.

(d) For the purpose of obtaining information relating to accidents involving bodily injury or loss of life in such mines or relating to occupational diseases originating in such mines, to be transmitted to the Bureau of the Census for use in connection with the preparation and compilation of the various Census reports.

(e) For the purpose of obtaining information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life in such mines, or the causes of occupational diseases originating in such mines, to be transmitted to the Congress for its consideration in connection with legislative matters involving health and safety conditions, accidents, or occupational diseases in coal mines.

*SEC. 【2】 102.* The Secretary of the Interior, acting through the United States Bureau of Mines, is further authorized and empowered to make or cause to be made the inspections and investigations provided for in section 1 of this 【Act】 title at other than annual intervals at any time in his discretion when the making of such inspections or investigations in the mine concerned will be in furtherance of the purposes of this 【Act】 title.

*SEC. 【3】 103.* The Secretary of the Interior acting through the United States Bureau of Mines, or any duly authorized representative of such Bureau, shall be entitled to admission to any coal mine the products of which regularly enter commerce or the operations of which substantially affect commerce, for the purpose of making any inspection or investigation authorized under section 【1】 101 or section 【2】 102 of this 【Act】 title.

*SEC. 【4】 104.* Any owner, lessee, agent, manager, superintendent, or other person having control or supervision of any coal mine subject to the provisions of section 【1】 101 or section 【2】 102 of this 【Act】 title who refuses to admit the Secretary of the Interior, acting through the United States Bureau of Mines, or any duly authorized representative of such Bureau, to such mine, pursuant to the provisions of section 【3】 103 of this 【Act】 title, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding sixty days, or by both.



SEC. [5] 105. Every owner, lessee, agent, manager, superintendent, or other person having control or supervision of any coal mine the products of which regularly enter commerce or the operations of which substantially affect commerce shall furnish to the Secretary of the Interior, acting through the United States Bureau of Mines, or to any duly authorized representative of such Bureau, upon request, complete and correct information to the best of his knowledge concerning any or all accidents involving bodily injury or loss of life which occurred in such mine during the calendar year in which the request is made or during the preceding calendar year. *Whoever willfully violates this section shall be fined not more than \$500 or imprisoned not more than sixty days, or both.*

SEC. [6] 106. The Secretary of the Interior, acting through the United States Bureau of Mines, is hereby authorized and directed—

(a) To report annually to the Congress, either in summary or detailed form, the information obtained by him under this [Act] *title*, together with such findings and comments thereon and such recommendations for legislative action as he may deem proper;

(b) To compile, analyze, and publish, either in summary or detailed form, the information obtained by him under this [Act] *title*, together with such findings concerning the causes of unhealthy or unsafe conditions, accidents, or occupational diseases in coal mines, and such recommendations for the prevention or amelioration of unhealthy or unsafe conditions, accidents, or occupational diseases in coal mines as he may deem proper;

(c) To prepare and disseminate reports, studies, statistics, and other educational materials pertaining to the protection or advancement of health or safety in coal mines and to the prevention or relief of accidents or occupational diseases in coal mines;

(d) To expend the funds made available to him for the protection or advancement of health or safety in coal mines, and for the prevention or relief of accidents or occupational diseases therein, in such lawful manner as he may deem most effective in the light of the information obtained under this [Act] *title* to promote the accomplishment of the objects for which such funds are granted;

(e) To transmit to the Director of the Census, either in summary or detailed form, the information obtained by him under this [Act] *title*, for use in connection with the preparation and compilation of the various Census reports; and

(f) To make available for public inspection, either in summary or detailed form, the information obtained under this [Act] *title*, as soon as practicable after the acquisition of such information.

SEC. [7] 107. The execution of the provisions of this [Act] *title* shall devolve upon the United States Bureau of Mines and the Secretary of the Interior may designate other bureaus or offices in the Department of the Interior to cooperate with the United States Bureau of Mines for such purpose. In order to promote sound and effective coordination of Federal and local activities within the field covered by this [Act] *title*, the Secretary of the Interior, and the several bureaus and offices under his jurisdiction, shall cooperate with the official mine inspection or safety agencies of the several States and Territories, and, with the consent of the proper authorities thereof, may utilize the services of such agencies in connection with the administration of this [Act] *title*. Copies of all findings, recommendations, reports, studies, statistics and information made public under the authority of clauses (b), (c), and (f) of section [6] 106 of this [Act] *title* shall whenever practicable, be furnished any cooperating State or Territorial agency which may request the same.

SEC. [8] 108. The Secretary of the Interior, acting through the United States Bureau of Mines, may, in his discretion, create and establish an advisory committee composed of not more than six members to exercise consultative functions, when required by the Secretary, in connection with the administration of this [Act] *title*. The said committee shall be composed of representatives of coal-mine owners and of representatives of coal-mine workers in equal number. The members of said committee shall be appointed by the Secretary of the Interior without regard to the civil-service laws.

SEC. [9] 109. The Secretary of the Interior, acting through the United States Bureau of Mines, shall have authority to appoint, subject to the civil-service laws, such officers and employees as he may deem requisite for the administration of this [Act] *title*; to fix, subject to the Classification Act of 1923, as amended, the compensation of officers and employees so appointed; and to prescribe the powers, duties, and responsibilities of all officers and employees engaged in the administration of this [Act] *title*: *Provided, however*, That in the selection of persons for appointment as coal-mine inspectors no person shall be so selected

unless he has the basic qualifications of at least five years' practical experience in the mining of coal, and is recognized by the United States Bureau of Mines as having the training or experience of a practical mining engineer in those essentials necessary for competent coal-mine inspection; and in detailing coal-mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to their previous practical experience in the work of mining coal in the State, district, or region where such inspections are to be made.

SEC. [10] 110. There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the due execution of this [Act] title.

SEC. [11] 111. For the purposes of this [Act] title, the term "commerce" means trade, traffic, commerce, transportation, or communications between any State, Territory, possession, or the District of Columbia and any other State, Territory, or possession, of the United States, or between any State, Territory, possession, or the District of Columbia and any foreign country, or wholly within any Territory, possession, or the District of Columbia, or between points in the same State if passing through any other State or through any Territory, possession, or the District of Columbia or through any foreign country.

SEC. [12] 112. If any provision of this [Act] title, or the application thereof to any person or circumstance, is held invalid, the remainder of this [Act] title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

## TITLE II—PREVENTION OF MAJOR DISASTERS IN MINES

### DEFINITIONS

SEC. 201. For the purposes of this title—

(1) The term "Board" means the Federal Mine Safety Board of Review created by section 205.

(2) The term "Bureau" means the Bureau of Mines.

(3) The term "certified person", when used to designate the kind of person to whom the performance of a duty in connection with the operation of a mine shall be assigned, means a person who is qualified under the laws of the State in which such mine is located to perform such duty, except that in a State the laws of which do not provide for such qualification, the term means a person deemed by the operator of such mine to be qualified to perform such duty.

(4) The term "commerce" means trade, traffic, commerce, transportation, or communications between any State, Territory, possession, or the District of Columbia and any other State, Territory, or possession, of the United States, or between any State, Territory, possession, or the District of Columbia and any foreign country, or wholly within any Territory, possession, or through any other State or through any Territory, possession, or the District of Columbia or through any foreign country.

(5) The term "Director" means the Director of the Bureau of Mines.

(6) The term "duly authorized representative of the Bureau" means a person appointed under section 109 of title I or under section 212 of this title, and authorized in writing by the Director to perform the duties of a duly authorized representative of the Bureau as provided in sections 202, 203, and 206 of this title.

(7) The term "gassy mine" means any mine in which methane has been ignited or has been found by a permissible flame safety lamp or by air analysis in an amount of 0.25 per centum or more in any open area.

(8) The term "mine" means an area of land including everything annexed to it by nature and all structures, machinery, tools, equipment and other property, real or personal, placed upon, under or above its surface by man, used in the work of extracting bituminous coal, lignite or anthracite, from its natural deposits in the earth in such area and in the work of processing the coal so extracted. The term "work of processing the coal" as used in this paragraph means the sizing, cleaning, drying, mixing and crushing of bituminous coal, lignite or anthracite, and such other work of processing such coal as is usually done by the operator, and does not mean crushing, coking, or distillation of such coal or such other work of processing such coal as is usually done by a consumer or others in connection with the utilization of such coal.

(9) The term "operator" means the person, partnership, association or corporation operating a mine and owning the right to do so.

(10) The term "permissible", as applied to equipment used in the operation of a mine, means equipment to which an approved plate, label, or other device is attached as authorized by the Director under section 212 (a), and which meets specifications which (A) are prescribed by the Director for the construction and maintenance of such

equipment, and (B) are designed to assure that such equipment will not cause a mine explosion or mine fire.

(11) The term "premises" when used in referring to the premises of a mine, means the land within the mine's area of land.

(12) The term "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, (A) 100 per centum of which will pass through a sieve having 20 meshes per linear inch and 70 per centum or more of which will pass through a sieve having 200 meshes per linear inch; (B) the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and (C) which does not contain more than 5 per centum of combustible matter, nor more than a total of 5 per centum of free and combined silica ( $\text{SiO}_2$ ).

(13) The term "surface" when used in referring to the surface of the premises of a mine, or the surface of a mine, or the surface of the area of the land in a mine, means ground in a mine's area of land which is not under ground.

#### INSPECTIONS

Sec. 202. (a) For the purpose of determining whether a danger described in section 203 (a) exists in any mine the products of which regularly enter commerce or the operations of which substantially affect commerce, or whether any provision of section 209 is being violated in any such mine, the Director shall cause an inspection of each such mine to be made by a duly authorized representative of the Bureau at least annually. The Director shall also make, or cause duly authorized representatives of the Bureau to make, such special inspections of such mines as may be required by section 203 (c) and section 206, and such other inspections of such mines as he deems necessary for the proper administration of this title.

(b) The Director or any duly authorized representative of the Bureau shall be entitled to admission to any such mine for the purpose of making any such inspection.

#### FINDINGS AND ORDERS

Sec. 203. (a) (1) If a duly authorized representative of the Bureau, upon making an inspection of a mine as authorized in section 202, finds danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall also find the extent of the area of such mine throughout which such danger exists. Thereupon he shall immediately make an order requiring the operator of such mine to cause all persons, excepting persons referred to in paragraph (2) of this section, to be withdrawn from, and to be debarred from entering, such area. Such findings and order shall contain a detailed description of the conditions which such representative finds cause and constitute such danger, and a description of the area of such mine throughout which persons must be withdrawn and debarred.

(2) No order issued under paragraph (1) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) any person whose presence in such area is necessary, in the judgment of the operator of the mine, to eliminate the danger described in the order; (B) any public official whose official duties require him to enter such area; or (C) any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

(b) If such representative finds that any provision of section 209 is being violated and that the conditions created by such violation do not cause danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated. Such findings shall contain the provisions of section 209 which he finds are being violated and a detailed description of the conditions which cause and constitute such violation.

(c) (1) The period of time so found by such representative to be a reasonable period of time may be extended by a duly authorized representative of the Bureau from time to time upon the making of a special inspection to ascertain whether or not such violation has been totally abated. The Director shall promptly cause such a special inspection to be made: (A) upon the expiration of such a period of time as originally fixed; (B) upon the expiration of such a period of time as extended; and (C) whenever an operator of a mine, prior to the expiration of any such period of time, requests him to cause such a special inspection to be made at such mine. Upon making such a special



inspection, such representative of the Bureau shall find whether or not such violation has been totally abated. If he finds that such violation has been partially but not totally abated, he shall find whether or not such period of time as originally fixed, or as so fixed and extended, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension would be. If he finds that such violation has been partially but not totally abated, and if such period of time as originally fixed, or as so fixed and extended, has then expired, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area of such mine which is affected by such violation. Thereupon he shall promptly make an order requiring the operator of such mine to cause all persons in such area, excepting persons referred to in paragraph (2) of this subsection, to be withdrawn from, and to be debarred from entering, such area. Such finding and order shall contain the provisions of section 209 which are being violated and a detailed description of the conditions which such representative finds cause and constitute such violation, and a description of the area of such mine throughout which persons must be withdrawn and debarred.

(2) No order issued under paragraph (1) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order; (B) any public official whose official duties require him to enter such area; or (C) any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

(d) Notice of each finding and order made under this section shall promptly be given to the operator of the mine to which it pertains, by the person making such finding or order.

#### NOTICES

SEC. 204. (a) All findings and orders made pursuant to section 203 or section 206, and all notices required to be given of the making of such findings and orders, shall be in writing. All such findings and orders shall be signed by the person making them, and all such notices shall be signed by the person charged with the duty of giving the notice. All such notices shall contain a copy of the findings and orders referred to therein.

(b) Each operator of a mine shall maintain an office on or near the premises of such mine and shall maintain thereon a conspicuous sign designating it as the office of such mine. Each operator of a mine shall maintain a bulletin board at such office or at some conspicuous place near an entrance of such mine, in such manner that notices required by law to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. The operator shall maintain on such bulletin board a conspicuous sign designating it as the bulletin board of such mine. Notice of any finding or order required by section 203 or section 206 to be given to an operator shall be given by causing such notice, addressed to the operator of the mine to which it pertains, to be delivered to the office of such mine provided for in the first sentence of this subsection, and by causing a copy of such notice to be posted on the bulletin board of such mine provided for in the second sentence of this subsection. The requirement of the preceding sentence that a notice shall be "addressed to the operator of the mine to which it pertains", shall not require that the name of the operator for whom it is intended shall be specifically set out in such address. Addressing such notice to "Operator of \_\_\_\_\_ Mine", specifying the mine sufficiently to identify it, shall satisfy such requirement.

(c) The Director shall cause a copy of each such notice to be mailed to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State or Territory charged with administering State or Territorial laws, if any, relating to mine safety in such mine.

#### CREATION OF REVIEW BOARD

SEC. 205. (a) An agency is hereby created to be known as the Federal Mine Safety Board of Review, which shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The terms of office of members of the Board shall be three years, except that the terms of office of the members first appointed shall commence on the effective date of this section and shall expire one at the end of one year, one at the end of two years, and one at the end of three years, as designated by the President at the time of appoint-



ment. A member appointed to fill a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed, shall be appointed only for the remainder of such unexpired term. The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) Each member of the Board shall be paid compensation at the rate of \$100 for each day of actual service, including travel on official business. Each member of the Board shall be a citizen of the United States. The Board, at all times, shall consist of one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal-mine operators, one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal-mine workers, and one person, who shall be chairman of the Board, who shall be a graduate engineer with experience in the coal-mining industry or shall have had at least five years' experience as a practical mining engineer in the coal-mining industry, and who shall not, within one year of his appointment as a member of the Board, have had a pecuniary interest in, or have been regularly employed or engaged in, the mining of coal, or have regularly represented either coal-mine operators, or coal-mine workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau.

(d) The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board.

(e) The Board shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Board and such legal counsel as it deems necessary. Subject to the civil-service laws, the Board shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Board shall be fixed in accordance with the Classification Act of 1949, as amended.

(f) Two members of the Board shall constitute a quorum, and official actions of the Board can be taken only on the affirmative vote of at least two members; but any one member, or any two members, upon order of the Board, shall conduct any hearing provided for in section 207 and submit the transcript of such hearing to the entire Board for its action thereon. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public.

(g) The Board shall hear and determine applications filed pursuant to section 207 for annulment or revision of orders made pursuant to section 203 or section 206. The Board shall not make or cause to be made any inspection of a mine for the purpose of determining any pending application.

(h) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall include requirement for adequate notice of hearings to all parties.

(i) Any member of the Board may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(j) The Board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must be first given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (i). Witnesses whose depositions are taken under this subsection, and the persons taking such depositions shall be entitled to the same fees as are paid for like services in the courts of the United States.

(k) In case of contumacy by, or refusal to obey a subpoena served upon, any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Board or to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such courts as a contempt thereof.

## REVIEW BY DIRECTOR

SEC. 206. (a) An operator notified of an order made pursuant to section 203 (a) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of making such special inspection. If he finds that such danger did not exist throughout such area of such mine, he shall make an order, consistent with his findings, revising or annulling the order under review. If he finds that such danger did exist throughout such area of such mine, he shall make an order denying such application.

(b) An operator notified of an order made pursuant to section 203 (c) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If he finds there was no such violation he shall make an order annulling the order under review. If he finds there was such a violation he shall also find whether or not such violation was totally abated at the time of the making of such special inspection. If he finds that such violation was totally abated at such time, he shall make an order annulling the order under review. If he finds that such violation was partially but not totally abated at such time, he shall find whether or not the period of time within which such violation should be totally abated, fixed under section 203, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension of such period of time would be. Thereupon he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and then he shall make an order, consistent with his findings, revising the order under review. If he finds that such violation was not totally abated at the time of such special inspection, and that such period of time should not be extended, he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and he shall then make an order, consistent with his findings, affirming or revising the order under review.

(c) The Director shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

(d) At any time while an order made pursuant to section 203 or this section is in effect, or at any time during the pendency of a proceeding under section 207 or section 208 seeking annulment or revision of such order, the operator of the mine affected by such order may apply to the Director for annulment or revision of such order. The Director shall thereupon proceed to act upon such application in the manner provided in subsections (a) and (b) of this section.

(e) In view of the urgent need for prompt decision of matters submitted to the Director under this section, all actions which the Director or his representatives are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

## REVIEW BY BOARD

SEC. 207. (a) An operator notified of an order made pursuant to subsection (a) or (c) of section 203 may apply to the Federal Mine Safety Board of Review for annulment or revision of such order without seeking its annulment or revision under section 206. An operator notified of an order made pursuant to section 206 may apply to the Board for annulment or revision of such order.

(b) The operator shall be designated as the applicant in such proceeding and the application filed by him shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. He may allege in such application: That danger as set out in such order does not exist at the time of the filing of such application; that violation of section 209, as set out in such order, has not occurred; that such violation has been totally or partially abated; that the period of time within which such violation should be totally abated, as fixed in the findings upon which such order was based, was not reasonable; that the area of the mine described in such order

as the area affected by the violation referred to in such order was not so affected at the time of the filing of such application. The Director shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail to the Director at Washington, District of Columbia.

(c) Immediately upon the filing of such an application the Board shall fix the time for a prompt hearing thereof.

(d) Pending such hearing the applicant may file with the Board a written request that the Board grant such temporary relief from such order as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the applicant and the respondent were afforded an opportunity to be heard, and only if respondent was given ample notice of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

(e) The Board shall not be bound by any previous findings of fact by the respondent or by any other representative of the Bureau. Evidence relating to the making of the order complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that danger or a violation of section 209, as set out in such order, existed at the time of the filing of the application, the burden of proving the then existence of such danger or violation shall be upon the respondent, and the respondent shall present his evidence first to prove the then existence of such danger or violation. Following presentation of respondent's evidence the applicant may present his evidence, and thereupon respondent may present evidence to rebut the applicant's evidence.

(f) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203 (a), the Board, upon conclusion of the hearing, shall find whether or not danger existed throughout the area of such mine as set out in such order, at the time of the filing of the operator's application. If the Board finds that such danger did not then exist, the Board shall make an order, consistent with its findings, revising or annulling the order under review. If the Board finds that such danger did then exist, the Board shall make an order denying such application.

(g) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203 (c), the Board, upon conclusion of the hearing, shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If the Board finds there was no such violation, the Board shall make an order annulling the order under review. If the Board finds there was such a violation, the Board shall also find whether or not such violation was totally abated at the time of the filing of the operator's application. If the Board finds that such violation was totally abated at such time, the Board shall make an order annulling the order under review. If the Board finds that such violation was partially but not totally abated at such time, the Board shall find whether or not the period of time within which such violation should be totally abated, fixed under section 203, should be extended. If the Board finds that such period of time should be extended, the Board shall also find what a reasonable extension of such period of time would be, and shall immediately also find the extent of the area of such mine which was affected by such violation at the time of the filing of such application and the Board shall then make an order, consistent with its findings, revising the order under review. If the Board finds that such violation was partially but not totally abated at the time of the filing of the operator's application, and that such period of time should not be extended, the Board shall find the extent of the area of such mine which was affected by such violation at such time, and shall make an order, consistent with its findings, revising the order under review.

(h) Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail to all parties or their attorneys of record. The Board shall cause such findings and orders to be entered on its official record.

(i) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

#### JUDICIAL REVIEW

SEC. 208. (a) Any final order issued by the Board under section 207 shall be subject to judicial review by the United States Court of Appeals for the circuit in which the mine affected is located, upon the filing in such court of a notice of appeal by the Director or the operator aggrieved by such final order within thirty days from the date of the making of such final order.



(b) The party making such appeal shall forthwith send a copy of such notice of appeal, by registered mail, to the other party and to the Board. Upon receipt of such copy of a notice of appeal the Board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcript shall be paid by the party making the appeal.

(c) The court shall hear such appeal on the record made before the Board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in addition to the pleadings before the Board, as it deems to be required or as provided for in the Rules of Civil Procedure governing appeals in such court.

(d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the United States Court of Appeals may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the Board or to grant such other relief as may be appropriate pending final determination of the appeal.

(e) The United States Court of Appeals may affirm, annul, or revise the final order of the Board, or it may remand the proceeding to the Board for such further action as it directs. The findings of the Board as to facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(f) The decision of a United States Court of Appeals on an appeal from the Board shall be final, subject only to review by the Supreme Court as provided in section 1254 of title 28 of the United States Code.

#### MINE SAFETY PROVISIONS

SEC. 209. (a) DUTY TO COMPLY.—Every operator of a mine, and every person who is on the premises of a mine for any reason whatsoever, shall comply with the provisions of this section, except those provisions which impose no duty, obligation, or responsibility upon such operator or such person.

(b) ROOF SUPPORT.—The roof and ribs of all active underground roadways and travelways in a mine shall be adequately supported to protect persons from falls of roof or ribs.

(c) VENTILATION.—(1) All active underground working places in a mine shall be ventilated by a current of air containing not less than 19.5 per centum of oxygen, not more than 0.5 per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases. The volume and velocity of the current of air shall be sufficient to dilute so as to render harmless, and to carry away, flammable or harmful gases. The quantity of air reaching the last open crosscut in any pair or set of entries shall not be less than six thousand cubic feet a minute, except that the quantity of air reaching the last open crosscut in any pair or set of entries in pillar sections may be less than six thousand cubic feet a minute if not less than six thousand cubic feet of air a minute is being delivered to the intake end of the pillar line.

(2) If the air at an underground working face in a mine, when tested at a point not less than twelve inches from the roof, face, or rib, contains more than 1.0 per centum of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilating system in such mine so that such air shall not contain more than 1.0 per centum of methane.

(3) If a split of air returning from active underground working places in a mine contains more than 1.0 per centum of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilating system in such mine so that such returning air shall not contain more than 1.0 per centum of methane.

(4) If a split of air returning from active underground working places in a mine contains 1.5 per centum of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, the employees shall be withdrawn from the portion of the mine endangered thereby, and all power shall be cut off from such portion of the mine, until the quantity of methane in such split shall be less than 1.5 per centum. However, in virgin territory in mines ventilated by exhaust fans, where methane is liberated in large amounts, if the quantity of air in a split ventilating the workings in such territory equals or exceeds twice the minimum volume of air prescribed in paragraph (1) of this subsection and if only permissible electric equipment is used in such workings and the air in the split returning from such workings does not pass over trolley or other bare power wires, and if a certified person designated by the mine operator is continually testing the gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw the employees and cut off all power from the



portion of the mine endangered by such methane only when the quantity thereof in the air returning from such workings exceeds 2 per centum, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas.

(5) In a gassy mine, air which has passed by an opening of any unsealed, abandoned area shall not be used to ventilate any active face area in such mine if such air contains 0.25 per centum or more of methane; but if this sentence cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In no event shall such air be used to ventilate any area in such mine in which men work or travel if such air contains more than 1 per centum of methane.

(6) In a gassy mine, air that has passed through an abandoned panel which is inaccessible for inspection, or air that has passed through a similar abandoned area which is inaccessible for inspection, or air which has been used to ventilate a pillar line, or air which has been used to ventilate an area from which the pillars have been removed, shall not be used to ventilate any active face area in such mine; but if this sentence cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In no event shall such air be used to ventilate any area in such mine in which men work or travel if such air contains more than 1 per centum of methane.

(7) In a gassy mine, within four hours immediately preceding the beginning of a working shift, and before any workmen in such shift other than those who may be designated to make the examinations prescribed in this paragraph enter the underground areas of such mine, certified persons designated by the operator of such mine to do so shall make an examination of such areas as prescribed in this paragraph. Each person designated to act as such a mine examiner shall be directed to examine a definite underground area of such mine, and, in making his examination, such examiner shall inspect every active working place in such area and make tests therein with a permissible flame safety lamp for accumulations of methane and oxygen deficiency in the air therein; examine seals and doors to determine whether they are functioning properly; inspect and test the roof, face, and rib conditions in the working places and on active roadways and travel ways; inspect active roadways, travel ways, approaches to abandoned workings, and accessible falls in active sections for explosive gas and other hazards; and inspect to determine whether the air in each split is traveling in its proper course and in normal volume. Such mine examiner shall place his initials and the date at or near the face of each place he examines. If such mine examiner, in making his examination, finds a condition which he considers to be dangerous to persons who may enter or be in such area, he shall indicate such dangerous place by posting a "DANGER" sign conspicuously at a point which persons entering such dangerous place would be required to pass. No person, other than Federal or State mine inspectors or persons authorized by the mine operator to enter such place for the purpose of eliminating the dangerous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the result of his examination to a person designated by the mine operator to receive such reports, at a designated station on the surface of the premises of the mine or underground, before other persons enter the underground areas of such mine to work in the next following working shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book kept for such purpose at a place on the surface of the mine designated by the mine operator.

(8) In nongassy mines, an examination as prescribed in paragraph (7) shall be made at least once in twenty-four hours and within four hours of the time the first shift enters the mine.

(9) The underground working places in all mines shall be examined for hazards by certified persons designated by the mine operator to do so, at least once during each shift while the men are in the mines, or oftener if necessary for safety. In a gassy mine, such examinations shall include tests with a permissible flame safety lamp for methane, and oxygen deficiency. In all underground face workings in a gassy mine where electrically driven equipment is operated, examinations for methane shall be made with a permissible flame safety lamp by a person trained in the use of such lamp before such equipment is taken into or operated in face regions, and frequent examinations for methane shall be made during such operations.

(10) In a gassy mine, immediately before a roof fall is made in pillar workings, such workings shall be examined to ascertain whether methane is present. If in such

examination methane is found in amounts that can be detected with a permissible flame safety lamp, a roof fall shall not be made until such gas is removed.

(11) In a gassy mine, all workings which are abandoned after the effective date of this section shall be sealed or ventilated. If such workings are sealed, the sealing shall be done in a substantial manner with incombustible material. One or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and the measuring of hydrostatic pressure behind such seals.

(d) **COAL DUST AND ROCK DUST.**—(1) Coal dust, loose coal, and other combustible materials shall not be permitted to accumulate in dangerous quantities in active underground workings of a mine.

(2) Where underground mining operations raise an excessive amount of dust into the air, water, or water with a wetting agent added to it, or other effective method shall be used to allay such dust at its source.

(3) All underground mines, except those mines or areas of mines in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock-dusted to within forty feet of all faces, and, if open crosscuts near such faces are less than forty feet therefrom, such crosscuts shall be rock-dusted.

(4) In mines partially rock-dusted or in mines that are required to start rock-dusting, haulageways and parallel entries connected thereto by open crosscuts shall be rock-dusted. Back entries shall be rock-dusted for at least one thousand feet outby the junction with the first active entry. Inby this junction, the rooms, entries, and crosscuts shall be rock-dusted.

(5) Where rock dust is applied, it shall be distributed upon the top, floor, and sides of all open places and maintained in such quantity that the incombustible content of the combined coal dust, rock dust and other dust will not be less than 65 per centum. Where methane is present in any ventilating current, the 65 per centum of incombustible content of such combined dust shall be increased 1 per centum for each 0.1 per centum of methane.

(6) Paragraphs (2), (3), (4), and (5) of this subsection shall not apply to anthracite mines.

(e) **ELECTRICAL EQUIPMENT.**—(1) All electric face equipment used in a gassy mine shall be permissible, except that electric face equipment may be used in a gassy mine even though such equipment is not permissible if, before the effective date of this section or the date such mine became a gassy mine, whichever is later, the operator of such mine owned such equipment, or owned the right to use such equipment, or had ordered such equipment. Permissible electric face equipment in use in a gassy mine shall not be replaced by electric face equipment which is not permissible except that (A) permissible and nonpermissible electric face equipment in use in a mine may be interchanged within such mine, and (B) explosion-tested cable-reel locomotives and shuttle cars purchased before permissible cable-reel locomotives and shuttle cars became available, may be used to replace permissible cable-reel locomotives and shuttle cars.

(2) In a gassy mine, permissible junction or distribution boxes shall be used for making multiple-power connections in working places or other places where dangerous quantities of methane may be present or may enter the air current, except that where nonpermissible junction or distribution boxes are in use, or on order, on the effective date of this section or the date such mine became a gassy mine, whichever is later, their use may be continued until such time as replacements are made.

(3) In a gassy mine, explosion-tested cable-reel locomotives shall be equipped with two-conductor trailing cables.

(4) In a gassy mine, trolley and feeder wires shall not extend beyond the last open crosscut and shall be kept at least one hundred and fifty feet from pillar workings.

(f) **FIRE PROTECTION.**—(1) Each mine shall be provided with suitable fire-fighting equipment, adequate for the size of the mine.

(2) After every blasting operation performed on shift, an examination shall be made to determine whether fires have been started.

(3) Underground storage places for lubricating oil and grease in excess of two days' supply shall be of fireproof construction.

(4) Lubricating oil and grease kept in face regions or other underground working places in a mine shall be in portable, closed, metal containers.

(5) Underground structures (transformer stations, battery-charging stations, substations, permanent pump rooms, etc.) installed in a mine after the effective date of this section shall be of fireproof construction.

(6) Welding, cutting, or soldering with arc or flame in underground face regions in other than a fireproof enclosure shall be done under the direct supervision of a certified person who shall test for methane before and during such operations in gassy mines and shall make a diligent search for fire after such operations in all mines.

Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(g) MISCELLANEOUS.—(1) The drilling and sealing of oil and gas wells penetrating coal beds or underground workings of mines shall be done in compliance with State statutes.

(2) Whenever any working place in an underground mine approaches within fifty feet of abandoned workings in such mine as shown by surveys made and certified by a competent engineer or surveyor, or within two hundred feet of any other abandoned workings of such mine, which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the face of such working place. Such boreholes shall be drilled sufficiently close to each other to insure that the advance face will not accidentally hole through into such workings. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of persons working in such place.

(3) In a gassy mine, smoking shall not be permitted underground, nor shall any person be permitted to carry smoking materials, matches, or lighters underground.

(4) In a gassy mine, persons underground shall use only permissible electric lamps for portable illumination.

(5) Black blasting powder shall not be stored, handled or used underground in a mine.

(6) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine.

(7) Every hoist used to transport persons at a mine, other than hoists used in excavating shafts or slopes, shall be equipped with overspeed, overwind, and automatic stop controls unless a second engineer is on duty. Every hoist used to transport such persons shall be equipped with brakes capable of stopping the platform, cage, or other device for transporting persons when fully loaded; and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages or platforms which are used to transport persons in vertical shafts, except cages or platforms which are also used to transport coal, shall be equipped with safety catches that act quickly and effectively in an emergency, and the safety catches shall be tested at least once every two months. Every hoist that is used to transport persons at a mine shall be inspected daily. No engineer shall be required for automatically operated cages or platforms.

#### PENALTIES

SEC. 210. (a) Any operator of a mine notified of an order made pursuant to section 203 or section 206, requiring him to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who willfully fails to comply with such order shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

(b) Any agent of an operator of a mine, knowing of the making of an order requiring such operator to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who willfully directs, authorizes or causes any person, other than one who is lawfully authorized to enter or be in such area, to enter or be in such area while such order is in effect, shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

(c) Any person, knowing of the making of an order requiring an operator of a mine to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who enters such area or remains therein while such order is in effect, shall, unless he is a person who is lawfully authorized to enter or be in such area, be fined not more than \$2,000 or imprisoned not more than six months, or both.

(d) Any owner, lessee, agent, manager, superintendent, or other person having control or supervision of any coal mine subject to section 202 who refuses to admit the Director or any duly authorized representative of the Bureau to such mine, pursuant to section 202 (b), shall be fined not more than \$500 or imprisoned not more than sixty days, or both.

#### EFFECT ON STATE LAWS

SEC. 211. (a) No State or Territorial law in effect upon the effective date of this title or which may become effective thereafter, shall be superseded by any provision of this title, except insofar as such State or Territorial law is in conflict with this title, or with orders issued pursuant to this title.

(b) Provisions in any State or Territorial law in effect upon the effective date of this title, or which may become effective thereafter, which provide for greater safety of persons on coal-mine premises, in connection with a particular phase of coal-mining operations, than do provisions of this title, which relate to the same phase of such operations, shall not be construed or held to be in conflict with this title. Provisions in any State or Territorial law in effect upon the effective date of this title, or which may become effective thereafter, which provide for the safety of persons on coal-mine premises in connection with phases of coal-mining operations concerning which no provision is contained in this title, shall not be construed or held to be superseded by this title.

#### ADMINISTRATIVE PROVISIONS

SEC. 212. (a) Whenever the Director determines that the construction of any equipment conforms to specifications prescribed by the Director which are designed to assure that such equipment will not cause a mine explosion or mine fire, he shall issue a certificate to the manufacturer of such equipment (1) stating that such equipment has met such specifications, (2) authorizing such manufacturer to attach an approval plate, label, or other device approved by the Director which indicates that such equipment conforms to such specifications, and (3) authorizing such manufacturer to attach an identical approval plate, label, or other device to all identical equipment.

(b) The Secretary of the Interior shall have authority to appoint, subject to the civil-service laws, such officers and employees as he may deem requisite for the administration of this title; and to fix, subject to the Classification Act of 1949, as amended, the compensation of officers and employees so appointed. No person shall be assigned or appointed to perform the duties of a duly authorized representative of the Bureau unless he has the basic qualifications of at least five years' practical experience in the mining of coal and is recognized by the Bureau as having the training or experience of a practical mining engineer in those essentials necessary for competent coal mine inspection.

(c) The Director shall submit annually to the Congress, as soon as practicable after the beginning of each regular session, a full report of the administration of his functions under this title during the preceding calendar year. Such report shall include, either in summary or detailed form, the information obtained by him under this title, together with such findings and comments thereon and such recommendations for legislative action as he may deem proper.

#### EXCLUSION FROM ADMINISTRATIVE PROCEDURE ACT

SEC. 213. The Administrative Procedure Act shall not apply to the making of any order pursuant to this title, or to any proceeding for the annulment or revision of any such order.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 214. There are hereby authorized to be appropriated such sums as may be necessary for the due execution of this title.

#### SEVERABILITY

SEC. 215. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this title, and the application of such provision to other persons or circumstances, shall not be affected thereby.